Reforum

Public Utilities

FORTNIGHTLY

April 10, 1947

CONGRESS *MUST* RECLAIM RECLAMATION
By the Honorable Hugh Butler, United States Senator

Moving the Masses in the City of Tomorrow
Part II.
By H. N. Oliphant

The Challenge of Street Lighting to the Electric Utilities
By Ed C. Powers

Nebraska, the Public Power State
Part III.
By Judson King

The Antidiscrimination Trend in State Legislatures
By Roscoe Ames

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Public Utilities Fortnightly

VOLUME XXXIX *April 10, 1947* NUMBER 8

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Pages with the Editors

RECLAMATION policies of the Federal government have been getting much more than a cursory examination in recent hearings of the House Appropriations Committee, as well as the House Public Lands Committee. This, perhaps, is only to be expected since there has been a shift of congressional control, following a fairly long period during which administration reclamation policies were not checked too closely by a politically sympathetic Congress.

AN amusing side light on this new spirit of inquiry on Capitol Hill came out recently while an important Interior Department official was chatting with a Republican Representative, preparatory to some hearings by the Interior Appropriations subcommittee. The Interior official had been talking with the Congressman about threatened cuts in Reclamation Bureau appropriations, pointing out how important the work of the bureau is to the welfare of the nation. The Congressman agreed that it is important; but he observed that most of the administrative agencies, faced with appropriation reductions, had somewhat similar ideas as to the importance of their respective functions.

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HUGH BUTLER

"BE that as it may," said the Interior official lightly, "I think the importance of reclamation work is confirmed by the precedence of great antiquity. In fact, you will read in the Bible, in the Book of Genesis, that the first work of creation was a reclamation job."

THE Congressman smiled and asked, "What was that?"

"WHY it was when the Lord separated the land from the waters. That was without doubt the most important reclamation work on earth. I might add that reclamation continues to be a matter of major importance."

IT so happened that the Congressman was quite a Bible student himself, and he replied:

"I AGREE with you as to the importance of reclamation work, but I don't believe that the separation of the land from the waters was the first work of creation. I seem to recall that on the first day the Lord said, 'Let there be light,' and that is the work we have been trying to follow out in these committee hearings, not only with respect to reclamation activity, but a number of other government functions."

UNITED STATES SENATOR HUGH BUTLER of Nebraska is a member of Congress from the upper chamber, who

is also anxious to throw light on the trend in Federal reclamation policy. This was evidenced by his recent bill to recapture certain policy-making powers from the Reclamation Bureau and reserve them for Congress itself. When this bill was introduced, we recognized its possible major effect on future public power policy of the Federal government. We accordingly asked the Senator to give us his own analysis of the legislation he is sponsoring in the present Congress. The leading article appearing in this issue is the result.

SENATOR BUTLER comes from a state where both public power and reclamation long have been leading issues. Born in Iowa in 1878, he graduated (BS) from Doane College at Crete, Nebraska, in 1900. For eight years he was a construction engineer with the Chicago, Burlington & Quincy Railroad, and thereafter engaged in flour mill and grain business in Omaha. Active in civic and fraternal organizations, he was governor of Rotary International from 1932 to 1933. He also has been active as a leading layman of Nebraska Congregational Churches. He was Republican national committeeman from Nebraska from 1936 to 1940. During the latter year he was elected to the U. S. Senate and re-elected for another full term last November (1946).

THE fact that Senator Butler is an engineer happened to remind us of another version of professional discussion about the works of creation mentioned in the Book of Genesis. It appeared that a doctor, lawyer, and engineer were once arguing in a lighter vein about which was the first profession.

"MEDICINE, of course," said the doctor. "The removal of Adam's rib was surely a surgical operation which antedated any other professional act in history."

"YOU'RE wrong there," said the engineer. "Separation of land from the waters antedated the creation of Eve, if I recall correctly."

THE lawyer broke in at this point and asked, "But what existed even before the separation of land from the waters?"

"NOTHING but chaos," said the engineer.

"YOU see," said the attorney, "who could have created chaos unless he were a lawyer?"

* * * *

ED C. POWERS, whose article on utility-challenging aspects of improved street lighting begins on page 480, has been active in the fields of industrial development and public service continuously since graduation from Amherst College in 1926. Starting as an associate editor with The Penton Publishing Company, he later began his association with The James F. Lincoln Arc Welding Foundation in its work of stimulating scientific progress of the electric arc welding industry, and with the Compressed Air and Gas Institute in its educational activities with respect to compressed air power. In his work with The Street and Traffic Safety Lighting Bureau, he collects and disseminates information on modern street illumination as it contributes to the public welfare.

* * * *

AMONG the important decisions preprinted from *Public Utilities Reports* in the back of this number, may be found the following:

AN appropriation to a reserve for postwar adjustments was allowed as an operating expense where its size was reasonable in relation to the probable amount of postwar costs resulting from amortization and war operations, where the expenses involved in its creation and use were of the type properly chargeable as operating expenses, and where the method of accounting resulted in charging expenses caused by war operations and the amortization practices against the revenues of the war period. (See page 65.)

THE next number of this magazine will be out April 24th.

The Editors

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Various regulatory rulings by courts and commissions reported in full text, pages 65-96, from 67 PUR(NS)

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

CYRUS H. K. CURTIS
Founder, The Curtis Publishing Company.

"The main point with me has always been to get somebody who could do a job better than I could do it myself."

HENRY A. WALLACE
Editor, The New Republic.

"Because of the public temper, it seems to me the part of wisdom for labor and industry to avoid serious strikes in 1947."

ROBERT R. WASON
Chairman, National Association of Manufacturers.

"Only the ineptitude of America's labor government can prevent the technological expansion that now beckons the people to higher standards of living."

DONALD W. DOUGLAS
President, Douglas Aircraft Company, Inc.

"Full production with its consequent full consumption is the only means by which all controversies in economy can find a just and permanent equilibrium."

EARL BUNTING
President, National Association of Manufacturers.

"We can't dump labor crises on the White House. To establish working harmony we've got to get labor relations out of the White House, off the front page, and into an honest effort of fair-minded men to agree."

KEEN JOHNSON
Under Secretary of Labor.

"If state and local governments limit their outlay for public works and procurement to immediate needs and high priority public works, such as hospitals, they will restrain inflation now, while prices are high and supplies short."

EDITORIAL STATEMENT
The Wall Street Journal.

"Monopoly will destroy the competitive system. When the regulating effects of competition are lost, some other regulating agency must replace them. That agency is a government which, despite its own wishes, must become totalitarian if it is to perform the job."

CHARLES S. GARLAND
Retiring president, Investment Bankers Association of America.

"We have busy and worthwhile years ahead, but let us not become so engrossed in our own personal businesses that we lose sight of our important duties as citizens, for the preservation of our free enterprise system compels the devotion and the concentrated attention of us all."

WALTER B. WEISENBURGER
Executive vice president, National Association of Manufacturers.

"While management is going all out to improve relations with employees by every conceivable means, some leaders of organized labor seem to be doing everything in their power to promote discord."

CHARLES E. WILSON
President, General Motors Corporation.

"I am sure that we will all be more prosperous and happy when thrift and industry have their reward, laziness and dissipation their penalty, when the planning of the country is from the grass roots."

EDITORIAL STATEMENT
The Journal of Commerce.

"When Congress finally gets around to revising laws applicable to industrial relations, the current drive to reopen union contracts before they expire may well play an important part in shaping legislative and public opinion toward such legislation."

NATHAN L. MILLER
General counsel, United States Steel Corporation.

"The power of collective action may endanger the very life of the community and destroy individual freedoms. Those who direct such action should be selected by democratic processes, carefully safeguarded, and should be held to strict responsibility and accountability."

EDITORIAL STATEMENT
The Seattle Daily Times.

"Cal Coolidge was away ahead of Judge Goldsborough when he said: 'Nobody has the right to strike against the government anywhere, any time.' But it's been almost unconstitutional for anybody to hold an old-fashioned, simple American opinion like that for nearly a quarter of a century."

IRA MOSHER
Board chairman, National Association of Manufacturers.

"We will have to act quickly if we want to get back to collective bargaining, because the people will not tolerate further delay in getting the country back into production. Today management and labor still have the chance to decide for themselves; tomorrow somebody may make the decision for them."

MURRAY SHIELDS
Vice president, Bank of the Manhattan Company.

"Let no one tell you that a lower level of Federal expenditures is impossible for many experienced tax experts have suggested budgets, capable of adequately supporting essential government services, of from one-third to one-half the so-called minimum budgets advocated by many government officials."

Excerpt from "Pulling Together," published by the National Small Business Men's Association.

"We are opposed to the policy of the Federal government usurping fundamental states rights in creating various types of authorities such as the TVA and the proposed MVA with the resultant centralization of authority in Federal agencies competing with individual private enterprise and the removal of assessable property from state tax rolls."

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Utilities Almanack

April

10	Th	¶ *Gas Meters Association of Florida-Georgia will hold meeting, Boca Raton, Fla., Apr. 25, 26, 1947.*
11	F	¶ *American Water Works Association, New York Section, ends meeting, Buffalo, N. Y., 1947.*
12	Sa	¶ *American Water Works Association, Montana Section, will hold meeting, Havre, Mont., Apr. 25, 26, 1947.*
13	S	¶ *U. S. Chamber of Commerce annual meeting will be held, Washington, D. C., Apr. 29–May 1, 1947.*
14	M	¶ *Gas Appliance Manufacturers Association meeting, begins, Chicago, Ill., 1947.*
15	Tu	¶ *United States Independent Telephone Association, Executives' Conference, begins, Chicago, Ill., 1947.*
16	W	¶ *Southern Gas Association begins meeting, Biloxi, Miss., 1947.*
17	Th	¶ *American Water Works Association, Illinois Section, begins meeting, Chicago, Ill., 1947.*
18	F	¶ *American Gas Association, Natural Gas Department, will hold spring meeting, Chicago, Ill., Apr. 30–May 2, 1947.*
19	Sa	¶ *National Rivers and Harbors Congress will hold annual convention, Washington, D. C., May 2, 3, 1947.*
20	S	¶ *Indiana Telephone Association will hold convention, Indianapolis, Ind., May 7, 8, 1947.*
21	M	¶ *American Water Works Association, Indiana Section, will hold meeting, Indianapolis, Ind., May 7–9, 1947.*
22	Tu	¶ *Ohio Independent Telephone Association convenes, Columbus, Ohio, 1947.* ¶ *National Rural Electric Coöperative Association meets, Spokane, Wash., 1947.*
23	W	¶ *Public Utilities Advertising Association begins area meeting, Regions 1, 2, 3, Philadelphia, Pa., 1947.*

Courtesy, Washington Water Power Company

Measuring Stream Flow for Hydro

Scene taken on St. Joe river in northern Idaho during hydrology survey

Public Utilities
FORTNIGHTLY

VOL. XXXIX, No. 8 APRIL 10, 1947

Congress *Must* Reclaim Reclamation

Control over reclamation policy and financing has slipped out of the hands of Congress. How can Congress get back these important powers?

BY THE HONORABLE HUGH BUTLER*
U. S. SENATOR FROM NEBRASKA

SINCE 1942, it has been apparent that most Americans want Congress to reassert its functions and to take back from the executive branch of the government powers given to that branch by less wary Congressmen in the high tide of the New Deal.

Various attempts—some of them successful—were made during the 78th and 79th Congresses, to introduce efficiency and order into the inefficiency and chaos which had been allowed to develop in preceding years. Half-hearted efforts were made by these two Congresses to recapture powers ceded to the Executive. But not until the convening of the 80th Congress last January did any of these attempts have a reasonable chance of success.

One fertile field for congressional action to regain lost powers is the far-flung empire controlled in the far West by the Department of the Interior. Little known to most Americans, the Secretary of the Interior has under his jurisdiction more employees than the governor of any one state in the nation;

* For personal note, see "Pages with the Editors."

he exercises influence in many spheres over an area larger than all Germany and France combined; and his office carries with it powers which, only two decades ago, would have been termed unbelievably great by the most "progressive" or "liberal" political thinker in the land.

JUST one field in which these powers of the Secretary of the Interior have grown out of all proportion to actual social need is that of reclamation. To understand the broad powers of the Department of the Interior in the field of reclamation, it is necessary for those who are unfamiliar with the problem to review the history of reclamation policy in the past half century.

The actual reclaiming of western arid lands by the United States government began after passage of the Reclamation Act of 1902, the first definitive law on reclamation to be written by Congress. This act made it possible for the government to underwrite the construction of irrigation dams to some extent, but for thirty years very little cash was appropriated from the general treasury for this purpose. Funds used for irrigation came from the sale of public lands, oil royalties, grazing fees, and water-user repayments. There were no general fund appropriations for reclamation by Congress until the late 1930's.

Under the Reclamation Act of 1939, new projects may be undertaken *only* if, after investigation, the Secretary of the Interior finds them feasible under the formula set up in § 9 of the 1939 act. If found feasible, appropriations for construction may—or may not—be made by the Congress. If not feasible under the formula, congressional authorization is necessary before beginning construction of a project.

It is significant to note that, since 1939, very few projects have been found feasible by the Secretary. Consequently, little use has been made of the Secretary's power to authorize projects under the existing act. This is because of the high cost even at prices prevailing prior to 1945. Today, costs of reclamation projects are approximately 175 to 200 per cent of the cost of similar projects completed in the 1930's. Therefore, under existing law, feasibility findings by the Secretary virtually are impossible for most new projects.

ALMOST from the date of the passage of the Reclamation Act of 1939, a strong reaction against some of its more obviously harmful provisions has been gathering force throughout the area west of the Mississippi river.

When I came to the Senate in 1940, I was committed to no particular program of reclamation, irrigation, or power development in connection with reclamation. But in the passing years, both as an irrigation farmer and as a student of government, I have been able to recognize the inherently bad features of the Reclamation Act of 1939. I hardly need add that millions of other westerners have seen these bad features, too. Therefore, I know that the reforms I seek are not merely daydreams. They are reforms based on the needs of millions of our fellow citizens and represent the hopes and aspirations of the vast majority of the people who are most vitally affected throughout the area in which irrigation is a necessity and the Bureau of Reclamation holds sway.

As a result of my study and observations, I introduced in the U. S. Senate on February 10, 1947, a bill (S 539) that, in effect, rewrites the Reclamation Act of 1939. Two days later, on February 12th, Representative Rockwell (Republican, Colorado) introduced an identical bill (HR 1886) in the House of Representatives. My bill was referred to the Senate Committee on Public Lands, while his bill, of course, was referred to the committee of the same name in the House.

I have no hesitancy in saying that these two bills—identical in substance, but differing in the form of paragraph designation — were prepared and recommended by a committee of the National Reclamation Association. Before introduction in Congress, they were approved by the board of directors of the NRA and provisions of the new legislation had been discussed pro and con throughout the West.

THE National Reclamation Association is an organization more representative of the views and hopes of more westerners than any other single group in the West. It is composed of 180 water users' organizations throughout the 17 states bisected by and west of the 97th meridian. Although it has only 2,800 individual members, it is still the largest purely public — but non-Federal — organization interested in the water development of the whole West and not any particular section or private interest of that vast area. It is supported financially by chambers of commerce, community service clubs, and many "grass-roots" organizations. In addition, 9 states appropriate money from their general funds to support the association.

The association at its convention in Denver, Colorado, in November, 1945, adopted the following Resolution No. 1, which is self-explanatory:

WHEREAS, The intent of the Reclamation Act of 1939, as indicated by its legislative history, as viewed by the reclamation interests of the West, and as interpreted by the Bureau of Reclamation for five years following the adoption of the act, was that costs chargeable to power, in addition to operation and maintenance costs, should be sufficient to return to the United States the power construction costs plus interest at 3 per cent per annum, which is described in the act as "an appropriate share of the construction investment"; and

WHEREAS, The solicitor of the Department of the Interior, under an opinion given on September 29, 1944, held:

"...that a proper interpretation of § 9 of the Reclamation Act of 1939 and the Hayden-O'Mahoney amendment to the department's Appropriation Act of 1939 require that the minimum rate schedule be such as to produce revenues sufficient only to meet, in addition to the return for operation and maintenance cost, an amount equal to 3 per cent of the power construction costs with the proviso that, if total revenues thus produced are insufficient to repay all costs allocated to power to be repaid by power revenues, 'other fixed charges' must be included in the rate schedule to produce revenues sufficient to repay such costs..."; and

WHEREAS, Although the solicitor's

¶ "UNDER *the Reclamation Act of 1939, new projects may be undertaken* ONLY *if, after investigation, the Secretary of the Interior finds them feasible under the formula set up in § 9 of the 1939 act. If found feasible, appropriations for construction may—or may not—be made by the Congress. If not feasible under the formula, congressional authorization is necessary before beginning construction of a project.*"

interpretation of the 1939 act provides for minimum power rate schedules only, it nevertheless lays a basis for fixing costs chargeable to power, and adjusting rates in accordance therewith, contrary to the accepted intent of the 1939 act at the time of its adoption, with results and implications of vital concern to the reclamation programs and to the national interest; and

WHEREAS, The application of the solicitor's opinion, particularly to a broad program of basin-wide development, may have wide-reaching effects contrary to the intent of Congress and to the policies now and heretofore supported by this association, which have asserted the principle that power production should be incidental to reclamation and should return, in addition to its share of operation and maintenance costs, at least a sufficient amount to repay the power construction investment, plus interest as provided in the act, and, where possible, aid in returning the cost of the irrigation features where the latter, if charged in full, would impose a burden beyond the ability of the water users to repay; Now therefore, be it

Resolved, By the National Reclamation Association, that the policy in reclamation development which would be effectuated by the opinion of the solicitor of the Department of the Interior, above mentioned, should not be permitted to prevail; and be it further

Resolved, That this association hereby registers its belief in, and approval of, the intent of the law as originally interpreted, and directs its officers to seek the enactment by the Congress of legislation making such intent effective and rendering nugatory the opinion of the solicitor referred to herein.

At its convention in October, 1946, in Omaha, Nebraska, the association adopted a similar resolution, again calling on Congress to take action to rectify the mistakes made by the solicitor of the Department of the Interior by his opinion on § 9 of the Reclamation Act of 1939. The association at that meeting appointed a committee which helped to draft the legislation I have introduced.

The legislation I have introduced, it will be noted, arose out of the opinions of the solicitor of Interior interpreting § 9 of the 1939 Reclamation Act and relates primarily to the application of power revenues from multiple-use Federal reclamation projects. The solicitor, among other things, held that the act did not specify any time within which costs allocated to power features of a project need to be paid. The repayment period, he said, would be fixed by the Secretary of Interior within the "useful life of the project." He further held that the interest component of commercial power rates, instead of going currently into the Treasury of the United States for the use of money, could be applied on the retirement of that portion of the project costs allocated to irrigation but allocable for repayment from power revenues. This would be such aid as was necessary to cover irrigation costs which were beyond the water users' ability to repay.

Such a pay-out plan is seriously questioned by many members of Congress; it is opposed by the National Reclamation Association as shown by resolutions passed by the last two annual conventions of the association and it appears unacceptable to the Bureau of the Budget which is a part of the executive office of the President. It is generally claimed by those who hold the latter view that the solicitor's opinions did not reflect the intention of the Congress when it passed the 1939 act; and it is feared that the effect of these opinions may strengthen the effort in some quarters to make of Federal reclamation primarily a power program. It is perfectly obvious that future appropriations for multiple-use reclamation development are jeopardized until the issue can be clarified.

It is likewise clear, because of the present-day costs of reclamation and the fact that the least expensive

National Reclamation Association

"THE National Reclamation Association is an organization more representative of the views and hopes of more westerners than any other single group in the West. It is composed of 180 water users' organizations throughout the 17 states bisected by and west of the 97th meridian. . . . It is supported financially by chambers of commerce, community service clubs, and many 'grass-roots' organizations."

developments have been made, that some different formula for project authorization, based on principles fair to the entire country, is necessary. The test of feasibility and the procedure set up in the 1939 act have proved unworkable. Witness the questionable and strained procedures approved by the solicitor's opinions! Could it be that such financial juggling would become a precedent for government financing of other forms of public works, such as hydroelectric development by the Department of Interior at flood-control projects over the entire country?

William Warne, assistant commissioner of the Bureau of Reclamation, recently said before the Public Lands Committee of the House:

> 1. At the present construction prices, there are pitifully few projects that can be brought forward now to qualify automatically under § 9 of the 1939 act.
> 2. Very few projects in recent years have come into the program in that manner. (By meeting the requirements for authorization of § 9 of the 1939 act.)
> 3. I anticipate that the major part of our program in the future will come through authorization based on acts passed by the Congress.

When Representative N. Poulson of California put this question: "Do you think you would have better success in getting appropriations if you had definitely received authorization from the respective committees in the House rather than starting it entirely as a department function?" Mr. Warne's reply was:

> Well, I have found that an activity that bears the stamp of approval of the House and Senate in recent months gets the attention of the Appropriations Committee more readily than other activities, yes.

UNDER this situation, we sponsors of S 539 and HR 1886 have proposed new legislation which clarifies the issues growing out of the solicitor's

opinions and provides new procedure which will make possible continued reclamation development, based on sound principles and which, it is believed, can be defended before the country as a whole. My proposed legislation does these things:

(1) Abrogates the authority of the Secretary of Interior to authorize reclamation projects, and places that responsibility in the Congress. The Secretary would be required to investigate proposed projects and prepare reports thereon in accordance with prescribed standards. The true construction costs of a project, the payout of such costs, and the engineering feasibility would be set forth in such reports. The reports would be submitted, in accordance with the provisions of § 1 of the 1944 Flood Control Act (Public Law 534, 78th Congress, Second Session), to the President for transmittal to the Congress. Thereby, the affected states and local interests would be given full opportunity to express their views and comments. The Congress would determine the economic justification of a project and authorize it for construction upon terms and conditions determined by it.

(2) Any interest required under the bill would be at 2 per cent per annum. This is a reduction from 3 per cent per annum prescribed by the 1939 act.

(3) Project costs allocated to irrigation and repayable by the irrigation water users may be paid in a period longer than fifty years, which would be fixed by the Congress, but with interest on any unpaid balance after fifty years.

(4) Costs allocable to municipal water supplies or other miscellaneous purposes would be repaid in a period not exceeding forty years, together with interest at 2 per cent per annum on unpaid balances.

(5) Costs allocated to commercial power features of a project would be amortized during the useful life of the project but within a period no longer than sixty-seven years with 2 per cent interest payable to the United States Treasury on unpaid balances for the use of money.

(6) With respect to costs allocated to irrigation features of a project but allocable for repayment from power revenues, it is specified that the power rate shall be sufficient to provide the maximum aid to irrigation compatible with the cost of generation of power within the area served when such power is or could be generated by the most efficient or least expensive available method. Such aid is only that available from power revenues within the rate level thus established and necessary to cover that portion of the irrigation cost which is beyond the ability of the water users to repay. The project costs allocated to irrigation but allocable for repayment from power revenues, like other irrigation costs, bear no interest for the first fifty years but carry interest at 2 per cent per annum on unpaid balances after the expiration of such period.

(7) The Secretary is prohibited from applying the interest on construction costs of commercial power to aid in the repayment of any portion of the irrigation costs of a project unless specifically authorized to do so on a particular project by the Congress.

(8) Provision is made for the write-off of costs which serve navigation, flood control, and fish and wildlife conservation to the extent and under the condition now permitted by law.

(9) The Secretary is directed to estimate the cost which can properly be allocated to recreation by reason of the provisions of new, enlarged, or improved facilities; or general salinity control; or silt control. Any one or all of these costs may be made nonreimbursable by the Congress in authorizing a particular project.

(10) Directives are contained in the two bills for the allocation of costs among project features.

(11) Provision is made for the Secretary's report, in estimating probable returns to the United States of the costs allocable to various features of a project, to estimate an appropriate share of annual maintenance and operation costs and an annual charge adequate to establish and maintain a reasonable reserve for replacements.

As could be expected—and as I knew before I introduced my bill—the Department of the Interior immediately voiced opposition to the new legislation. There are many reasons why the department does not want any change in the Reclamation Act of 1939, but I am sure most observers would agree with me that the biggest reason is that men always hate to lose power. My bill definitely would shear off some power from the executive branch of the government, particularly the Department of the Interior, and return this power to the Congress. As a matter of fact, the Congress never should have abrogated its powers in this respect in 1939 and, when we pass this legislation, we will simply be reclaiming functions which had always been used by Congress in the past.

The points used by those hostile to the new legislation hardly can be called valid. The biggest single objection raised to the new legislation so far is that "Congress wants more pork." The simple answer to this objection is that my bill plainly provides that each new project shall be considered in separate legislation by Congress. This means that there will be no more omnibus legislation on reclamation projects, and I believe that a simple understanding of this fact refutes completely the charge that the new legislation is being pushed so that Congress can get more pork. In short, logrolling would be *more* difficult under the new legislation.

As a matter of fact, the people of the far West who elect Congressmen do not need more pork, but tens of thousands of them do need more water. To the people of my state of Nebraska and to tens of thousands in other states, irrigation is an economic necessity. If they cannot get water by having needed irrigation projects, they cannot live on their land. Since, in many instances, there is a need for water and yet not enough water users to amortize a purely irrigation project, it is apparent that there must be power generated on some irrigation projects so that the whole expenditure may be repaid through the years. The Department of the Interior officials seem to feel, mistakenly I am sure, that they can follow a policy of furnishing power through big projects, such as the Grand Coulee, and at the same time

¶ "THE *average American perhaps realizes in a vague way the immensity of the task confronted by the government in developing millions of new acres of farm land in the West by irrigation. But relatively few Americans know just how much money has been spent there and how much the government is obligated to spend under existing authorizations.*"

purely irrigation projects can be developed without corresponding power development. It is apparent to me and to other water users throughout the West that, if the Interior Department's policies are followed, there will not be as much irrigation development as must be if the West is to grow.

THE average American perhaps realizes in a vague way the immensity of the task confronted by the government in developing millions of new acres of farm land in the West by irrigation. But relatively few Americans know just how much money has been spent there and how much the government is obligated to spend under existing authorizations.

As of today, the estimated construction cost of all the irrigation and power projects completed, in process of construction, and authorized to be constructed totals $2,504,344,830. This huge sum is simply the Federal government's share and does not include billions of dollars invested by citizens in homes, personal property, and other improvements on the irrigated lands of the West. It can be seen, then, that every citizen—and not simply those of the West—has a great stake in formulating reclamation policy. That is a big reason why the Congress, and not just a department of the executive branch of the government, ought to have once more the power to authorize, or to refuse to authorize, new projects. We are not fooling around with trivial sums, but with huge sums that deserve the attention and consideration of all Congressmen interested in the fiscal sovereignty of the government.

Just as important, Congress, through action on reclamation projects, is affecting the destinies of tens of thousands of citizens in every one of the irrigation states. These citizens elect their Congressmen. They do not elect the Secretary of the Interior. Therefore, they know in their hearts that *their* vital stake in reclamation problems would be safer in Congress than in the Department of the Interior, regardless of the kindliness, intelligence, or good intentions of the Secretary.

I DO not claim that the new legislation which I have introduced is letter perfect, and I am perfectly agreeable to making changes that can be shown to be necessary. One small change, for the purposes of clarifying the language, already has been suggested and it will be made. Other textual changes doubtless will be made. But, unless I have good reason to believe that there has been a significant shift in the thinking of the millions of citizens who live west of the Mississippi river, I am convinced of the ultimate usefulness of my bill, and I believe that the Senate and the House of Representatives will enact it into law within a reasonable period of time.

¶ *"WHY should we fear our ability to direct the energies of free enterprise for the vast expanding needs of our common welfare? Of course, there are today problems resulting primarily from the tremendous job we did in the war. We can lick any problem we have if all groups will face it together with mutual determination to find the solution."*

—W. AVERELL HARRIMAN,
Secretary of Commerce.

Moving the Masses in the City of Tomorrow

Part II.

In his concluding instalment, the author examines different possible remedies for solving the city traffic jam and thereby assisting the transit industry to keep our municipal transportation circulation healthy and growing.

By H. N. OLIPHANT*

MANY cities, such as Detroit, Indianapolis, Atlanta, and Los Angeles, impatient to get going on their municipal major surgery, are undertaking stupendous programs of their own, without waiting for Federal help. Among other things, these programs provide for the construction of three basic types of modern thoroughfares: (1) depressed or elevated freeways with no traffic lights, no intersections at grade, with opposing streams of traffic separated by parks or malls, and with controlled movement at selected entry and exit points; (2) radial routes, which will radiate from the downtown "hub" like the spokes of a wheel, efficiently connecting the central and outlying districts; and (3) belt lines, which will circle the central business district, the midtown area, and the outer edge of town, enabling traffic to move directly to the section nearest its destination.

Admittedly, the programs will be expensive. Detroit's plan, calling for 168 miles of expressways, will cost $131,000,000. In addition, the Motor City will spend $21,500,000 on the improvement of its public transit system. Atlanta proposes to shell out $47,700,000 for right-of-way and construction costs on an elaborate street and freeway program, which includes the ripping up of streetcar tracks and the addition of many new busses and streamlined trolley coaches to its transit setup. Indianapolis has given its planners the green

* Professional writer, New York, New York.

light to start on a $27,000,000 city building program. Toledo's celebrated "Toledo Tomorrow" project, which calls for an almost complete rebuilding of the city, is gradually getting under way. Houston, Portland, Seattle, Chicago, and other cities, after giving their financing tools a thorough resharpening, are joining the fast-growing "Cities of the Future" parade.

THESE grandiose projects are heartening evidence that America's cities have at last awakened to the fact that the only thing that can ultimately save them from self-destruction is a thoroughgoing job of major surgery. Top architects and city planning engineers warn, however, that it's going to be a long time—perhaps a generation or two—before many of the indicated major operations can be completed. Meanwhile, they say, unless realistic and vigorous measures are adopted immediately, a lot of sickly municipal patients may literally wither away. *First aid for our cities,* therefore, is the planning engineer's order of the day.

What does this first aid for cities consist of? Can it wipe out blight and decay? Can it arrest haphazard decentralization? Can it restore new vigor and health to ailing communities? The best way to answer those questions is to take a look at a couple of the cities which have tried it. Take Oakland, California, for example.

Like most other U. S. cities, Oakland (population, 300,000) first detected telltale symptoms of blight in its central business district in the late Twenties. Automobiles and trucks clogged the streets. Commercial areas were choked with stalled and indiscriminately parked cars. Free movement of people and goods was stymied. Rather than buck the honking chaos of the downtown district, people started doing as much business as possible in smaller, near-by communities. By 1931 the loss in the volume of retail business had grown so acute that many of the city's biggest merchants began surveying the outskirts for sites on which to build suburban stores. Several of the merchants decamped and set up stores in the suburbs.

"OUR downtown buildings," recalls Dudley W. Frost, manager of Oakland's Downtown Property Owners Association, "looked pretty awful at that time. With their faces wrinkled and drooping, their window eyes covered with film, their many vacancies—altogether they reminded you of the smile of an old witch with every other tooth missing."

Frost and Harold D. Weber, another businessman and now general manager of the Oakland Chamber of Commerce, called a meeting of the city's leading merchants, bankers, and property owners. "Decentralization," Frost told them, "is undermining this town like gangrene. We've got to do something about it right now or we're all going to wake up some morning and find we're living in a ghost city."

The men organized a number of voluntary citizen groups, the most important of which are the Downtown Property Owners Association and the Downtown Merchants Association. They went to work. The first thing they did was to call in experts on all phases of decentralization to investigate Oakland's particular problems.

"We had experts all over the place,"

Weber says, "and we studied their findings on practically every subject under the municipal sun. For instance, we had experts on local tax systems. With them we studied assessed property evaluations to find out whether they were excessive, inequitable, or not adjusting themselves to changing conditions. With the very helpful coöperation of our city officials we made recommendations to redress the inequities we uncovered. We studied building codes, zoning laws, and made more recommendations."

Most important of all the merchants associations' studies, however, were on traffic congestion, its causes and cures. With the help of fellow citizens like Alfred J. Lundberg, president of Oakland's Key (Transit) System, and several of the country's top-flight planning engineers they learned the basic facts about the techniques of *moving people and goods,* the fundamental reason for a city's being.

"We found out," says Weber, "that Oakland was dying of hardening of the arterials. Our first job, therefore, was to get our circulation system going again. We made origin and destination surveys to determine where people wanted to go. Then we made studies to determine the relative efficiency with which various types of vehicles use street space. In these latter studies, incidentally, our findings tallied exactly with the findings of many other cities, and they're still valid for those cities today.

"For instance, private automobiles always carry an average load of 1.7 persons. Don't ask me why that is, but it's always so, and it will always come out 1.7 wherever you count your city traffic. Also, we found out that each person in a moving automobile occupies about 500 square feet of street space, and requires 140 square feet of parking space. Then, studying public transit efficiency with Mr. Lundberg, we discovered that a person riding in a streetcar, trolley coach, or bus occupies only 60 square feet, and needs no parking space. In other words, a person riding in a public transit vehicle uses street space 7 times more efficiently than a person riding in an automobile. That fact throws a lot of light on the traffic problem."

Armed with these and other facts, the citizen groups and city officials started administering first aid. Important streets were widened and improved. Curb parking was eliminated in most of the central districts during rush hours. One-way street patterns were devised. The use of public transit vehicles was encouraged.

¶ "Detroit's *plan, calling for 168 miles of expressways, will cost $131,000,000. In addition, the Motor City will spend $21,500,000 on the improvement of its public transit system. Atlanta proposes to shell out $47,700,000 for right-of-way and construction costs on an elaborate street and freeway program, which includes the ripping up of streetcar tracks and the addition of many new busses and streamlined trolley coaches to its transit setup.*"

The idea of parking restrictions was not to discourage the reasonable use of private automobiles, but to discourage profligate abuse which hampered not only those others who really had good reason to drive their cars downtown but also the operation of the transit company which had to take the responsibility for moving the workers and the general public back and forth every day.

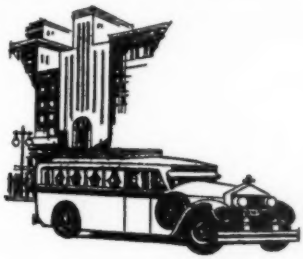
To solve the parking problem, Weber, Frost, and their fellow businessmen created the Downtown Merchants Parking Association, a model for coöperative community action. Here's how Frost describes the unique setup: "It's a nonprofit, coöperative organization, and any merchant can become a member without divvying up an initial fee. All he has to do is to agree to abide by the association's bylaws. Membership is composed of stores, banks, newspapers, finance companies, professional men—in short, all classifications of business conducted in downtown Oakland. The association started off by buying five downtown lots, one of them a deteriorating, unimproved block in the central business district. Today, we have six lots, and together they handle about a million and a half automobiles annually. Free parking is permitted until 6 PM for periods of one, one and a half, and two hours, depending on the location of the lot. After the free time, a charge of 10 cents per hour or fraction is made. To get free parking, customers must have their parking tickets validated by a member of the association. But the customer does not have to make a purchase in order to have his ticket validated. The system gets many more potential customers in the stores, and the merchants are not unhappy about that.

"COSTS of parking are billed to merchant members on a pro rata basis, the monthly charge varying as the number of validations and operating costs increase or decrease. Each member is billed in accordance with the number of his validations each month. This cost, because of the plan's complete success, has always been below 5 cents per car."

Was Oakland's first aid effective? Let Mr. Frost answer that one. "By Pearl Harbor," he says proudly, "after an 8-year improvement program, Oakland's downtown shopping district was completely rehabilitated — actually brought back to life. Property decline was stopped. In-town property values were put on the increase. Decentralization was effectually checked. Blight and decay ceased almost entirely. What we did here is something every citizen can be mighty proud of."

The war, perforce, canceled some of Oakland's advances. In addition, the unleashing of thousands of private automobiles has severely taxed its horse-and-buggy streets. But the California city, thanks to the foresight and initiative of its citizens, is tackling its new problems with big reserves of economic stamina.

"First-aid measures," says Weber, "will continue. We're going to further improve our streets, and we're going to give our whole traffic mechanism a thorough overhauling. Also, our transit company, to provide a faster and more flexible service between residential areas and the downtown section, has just taken on a new fleet of trolley coaches. Meanwhile, we're preparing to subject Oakland to an exten-



City Building Programs

"INDIANAPOLIS has given its planners the green light to start on a $27,000,000 city building program. Toledo's celebrated 'Toledo Tomorrow' project, which calls for an almost complete rebuilding of the city, is gradually getting under way. Houston, Portland, Seattle, Chicago, and other cities, after giving their financing tools a thorough resharpening, are joining the fast-growing 'Cities of the Future' parade."

sive job of major surgery, too. A great network of freeways is being designed and $15,000,000 in bonds has already been voted by the citizens to meet the city's share of the construction costs."

ANOTHER city that can show evidence of the value of timely urban first aid is Philadelphia. Recognizing, shortly after VE-Day, that the imminent return of thousands of automobiles to its narrow streets would aggravate the city's already serious congestion problems, the city council, with the approval of Mayor Bernard Samuel, empowered the chief of the bureau of traffic engineering, Robert A. Mitchell, to organize the Philadelphia Committee for the Relief of Traffic Congestion. Mitchell's outfit, comprising representatives from the bureau of police, mass transportation companies, automobile clubs, civic and merchants groups, immediately undertook an exhaustive survey of downtown traffic conditions. In October, when the survey was completed, the committee announced several interesting findings:

(1) During a typical weekday between 8 AM and 6 PM 14,000 vehicles were parked on the curbs in the central district. These carried less than 24,000 persons, only about 3 per cent of the more than 726,000 who go into downtown Philadelphia each workday.

(2) Of the curb parkers, 63 per cent were downtown on business, 21.5 per cent for shopping, 4.6 per cent for dining and entertainment.

(2) Although more than 78 per cent of the cars were parked for less than an hour, the 3 per cent that were parked for more than five hours occupied 18 per cent of available curb space.

(4) Of the shoppers, 75.4 per cent went to the area by streetcar, trolley

coach, and bus; 13 per cent by train; 8.4 per cent by private automobile; and 3.2 per cent walked.

(5) Twenty-six per cent of the shoppers who used their own automobiles parked their cars in the street. Less than 3 per cent of the total shoppers, in other words, drove into the district and parked their cars at the curb.

"THESE findings," says Mitchell, "bore out what traffic engineers have suspected for a long time; namely, that the bulk of the city's business is done by persons using public transportation vehicles. The survey also proved to downtown merchants the vital necessity of keeping our streets open for the free movement of people and goods."

The city council approved the committee's recommendations for first-aid measures, and on January 2nd these were put into effect. Parking was prohibited on virtually all streets in the central business district. In addition, Mitchell's bureau reversed the flow of traffic on two main thoroughfares leading to and from the central area from the west. One-way streets were designated. Right and left turns were prohibited at certain intersections. Traffic lights were retimed. Police enforcement was tightened.

These simple measures paid off. Before-and-after surveys show, for example, that the time consumed in crossing central Philadelphia on streetcar, trolley coach, or bus has been reduced as much as 30 per cent. Reporting one of the surveys, R. F. Tyson, executive vice president of the Philadelphia Transportation Company, said, "On January 2nd, Philadelphia cleared up a shameful condition of street congestion at the city's center which for years has been one of the causes of exodus of industry and distribution to outlying areas. During the morning and evening traffic peaks there are now three lanes of fast-moving vehicles on Chestnut and Walnut streets, whereas formerly these vital east-west arteries carried one or at most two lines of creeping traffic during the rush hours. Our traffic streams are flowing again and the whole city is patently healthier."

TYSON, Mitchell, and the Philadelphia City Planning Commission, however, are entertaining no illusions about the scope and character of the first-aid program. They realize that the measures taken so far are no more than temporary expedients, or, as one engineer describes them, "aspirin tablets for an old city headache." According to Dr. Harold M. Mayer, chief of the division of planning analysis, it's going to take a lot more than aspirin tablets to cure the traffic headaches that Philadelphia and most U. S. cities are suffering from.

"Moreover," says Dr. Mayer, "when automobile production shifts into high gear our problems will increase manyfold. All our cities will clog up and stagnate unless we can effect some far-reaching changes in certain of our basic concepts of urban life. Awe-inspiring freeways and elevated and depressed radial thoroughfares will help. But we've got to remember that such developments have a way of attracting maximum traffic almost immediately after they're built. Given the best freeways in the world, we'd still be confronted with the old problem of taking care of, that is, storing, vehicles after

they've been properly routed to their destinations. Put it this way: If all of the employees in a 10-story building drove to work in private automobiles, a building of almost the same size would be required to park their cars. Plainly, if everyone elected to use automobiles to go to work, we couldn't possibly find room for parking them.

"WHAT does this mean? Simply this. If our cities want to avoid downright strangulation from the eventual release of millions of private vehicles onto our old-fashioned streets, we'll have to effect a radical change in our concept of the use of automobiles. Originally, we thought of the automobile as primarily a vehicle for pleasure. Gradually, during the Twenties and Thirties, we came to think of it as primarily a vehicle for business. Today, we are probably faced with the necessity of reverting to our original concept. As cities are built now—and they're relatively permanent—there simply isn't room for the swarms of automobiles that would descend on us if everybody used his car for business."

The answer? Dr. Mayer believes there are two. First, most of us will have to use public transit more and more, reserving our cars for week-end trips to the country, or for other special uses not requiring trips into the downtown areas. Perhaps we shall be able to drive to the outer fringes of central districts, park our cars, and then take a streetcar or trolley coach on into the business sections. Many cities have had considerable success with parking areas situated near public transit terminals. Philadelphia's 69th street and Frankford terminals are good examples.

Second, Dr. Mayer believes, we ought to profit by lessons learned during the war and retain a system of staggered working hours, a device without which our swollen war production centers would have bogged down in hopeless traffic snarls.

LIKE all city planning experts, Dr. Mayer is, of course, aware that solving traffic problems alone is not automatically going to produce the city of the future. But unless we do solve them, he insists, all our other imposing plans for tomorrow's brave new cities will doubtless come to zero.

Happily, many of our cities are waking up to the fact that first aid must come first, and they are doing something about it. It is a genuinely hopeful sign in an almost hopeless world. It proves that the city builder's dictum is finally sinking in: *Our cities are a basic, natural resource, like forests, soils, and rivers. They are an inheritance which must be cherished and nourished, so that we can pass them on to future generations in a better condition we found them.*

IF we can pass on to our children strong and healthy cities in which they will find a more equitable sharing of knowledge, health, safety, respect, and character, in which they will have a real chance to grow to maturity with dignity and purpose, who knows? They might one day write the word "enduring" to the peace we are striving to mold today.

The Challenge of Street Lighting To the Electric Utilities

Despite the margin of human error, such as reckless and drunken drivers—neither the motorist nor the pedestrian can be held responsible for an increasing number of fatal and costly accidents. Here is a suggestion for not only preventing this toll of life and property but paying business dividends in the process.

By ED C. POWERS *

THE Street and Traffic Safety Lighting Bureau, in its intensive campaign to acquaint the public with the facts regarding the grave inadequacy of present-day street lighting in the protection of the public, is receiving active and widespread coöperation. Newspapers, civic organizations, parent-teacher groups, businessmen's organizations, public safety commissioners, women's clubs, and other like groups interested in the welfare of the community and the betterment of business, are taking an ever-increasing interest in the need for better lighting to save lives and provide protection from crime on the streets at night.

Utilities are also fully aware of the need for better lighting. Their interest in this phase of public service that is equally beneficial to utility and citizen alike is due to the fact that utilities appreciate their true place in the picture. Certainly, the utility has as much to gain from an ideal street-lighting setup as the businessman who enjoys an appreciable boost in his profits and the citizen who reaps the benefits of adequate protection from motor vehicle accident fatalities and crime.

Quite apart from the public relations value of coöperating in a project of vital interest to the community (a phase which should not be overlooked), is the dollar-and-cents aspect.

THE Illuminating Engineering Society, in its forecast of postwar power needs, estimates that approximately 2,000,000,000 kilowatt hours of power per year are now used to light the streets of the United States. This, in the average city, provides the amount of light that is recommended by lighting authorities for *alleys*.

To bring street lighting up to

* For personal note, see "Pages with the Editors."

safety standards would require 8,000,000,000 kilowatt hours of power per year, according to the Illuminating Engineering Society. This would mean an increase of 300 per cent in business to the utilities. Sales of electricity are far below what they could be if streets and highways were not still in the horse-and-buggy lighting stage. No intelligent person would think of sitting down to read a book by candlelight in 1947, yet he is jeopardizing his welfare many times more when he drives his car at 30 (or probably more) miles per hour on a street or highway so poorly lighted that he cannot stop in time to avoid the danger that looms out of the darkness.

The average American has rarely seen an adequately lighted street. (There are not many in the United States.) Greensburg, Pennsylvania, is an example of what happens when he does.

The citizens of Greensburg realized that they needed better lights on their streets, but they felt the cost would be too high to do a complete job at one time. A long-range improvement program was planned, but when a sample installation was made on one of the main thoroughfares and the townspeople saw what adequate lighting was, they chorused, "Give us light—now!" They were willing to pay the bill, and when the cost was estimated it was found to be only $1.95 per person per year—65 cents more per person than the old system. Considering the saving of lives and costs from the decrease in nighttime accidents and deaths, there can be no doubt of the benefits and profit from the Greensburg installation. The public is willing to pay the price when it obtains something worth while for its money, and coöperation between the citizen and the utility, when each assumes his responsibility, means ultimate profit for both.

No community can afford the luxury of inadequate street lighting. The story of the costs in life, business profits, heightened insurance rates, and lowered morale, is not a pretty one.

There were 10,140 nighttime motor accident fatalities in 1946 directly attributable to poor visibility. In 1941, the National Safety Council estimated the cost for each fatality (including injuries and damage) was $43,000. The figure now, because of higher costs generally, would be much greater. Statisticians report that nighttime fatal traffic accidents cost $2,444 per mile per year. These losses are all reflected in increased insurance rates, which affect the private citizen, the businessman, and the utility alike.

Poor street lighting is directly reflected in the volume of business transacted in a shopping area. People, either local or transient buyers, are attracted by well-lighted shopping areas, where they can walk and park their cars in safety, and where their children are protected from the crime dangers that lurk in dimly lighted places. They are equally repelled by dark and dreary streets, and when there is a choice between two such shopping districts, the lighted sections get the business — and the profits. With a rise in pedestrian traffic comes a rise in business property values.

Everyone in the community pays indirectly for the grossly out-dated street-lighting equipment that is now the rule rather than the exception. They pay not only in dollars and cents, through

increased insurance rates, wage loss, and property damage, but they pay as highly and unknowingly through the generally lowered morale of a city where needless deaths and crime are frequent occurrences. It is the responsibility — and opportunity — of business, the public, and the utility to coöperate in measures designed to raise the standards of the community to the highest possible levels.

THAT the country as a whole is waking to the relation of adequate street lighting to public welfare is apparent: In many cities, newspapers are launching crusades for the modernization of lighting; national magazines and specialized publications are featuring articles on the same subject; chambers of commerce, Lions, women's clubs, and men's business organizations are making this important phase of city improvement the subject of discussion and action.

The Street and Traffic Safety Lighting Bureau, in a nation-wide survey made last year, submitted a questionnaire to police officials in cities with populations of 10,000 and over. Ninety-six per cent of those replying stated that in their opinion poor street lighting was a definite contributing factor in the high nighttime traffic accident rate, and 71.5 per cent admitted that their cities were inadequately lighted.

In response to this ever-increasing demand, modern street lighting is finding a place on more and more city improvement budgets.

The march for light is on, and utilities with foresight are not only replacing obsolete equipment with modern installations and enlarging their systems to take in new areas as rapidly as the availability of lighting equipment permits, but they are initiating interest in these improvements. A higher price for power is justified, and willingly paid for, when the community is receiving something worth while for its money.

That is good business.

Government in Bargaining

"GOVERNMENTAL *interference with collective bargaining continues. There is no longer any adequate justification for such interference. It is resented by workers. It is equally resented by most employers, particularly by those who are sincere in their belief in the superiority of the system of free enterprise to any other economic system. Most important of all, this continuance of governmental interference with true collective bargaining is grossly injurious to the efforts which are being made to restore our economy to robust health.*"

—GEORGE MEANY,
Secretary-treasurer, American Federation of Labor.

Nebraska, the Public Power State

Part III. *Is the Nebraska Public Power System a sound operation?*

Aside from engineering hazards, Nebraska's "Little TVA" had to finance its own acquisition of private company properties (as distinguished from TVA itself). Nevertheless the system is paying out.

By JUDSON KING*

In two previous articles the growth of three independent PWA relief projects in Nebraska into an integrated, statewide, irrigation, flood-control, power system has been sketched. Many details of course in this space had to be omitted. There are two factors, however, which must be included—the municipal power plants and the Rural Electrification Administration coöperatives, legally organized under the laws of that state as public power districts.

In 1927 there were 298 Nebraska cities and towns which had electric service. Of these 242 were municipally owned and 56 were private. This large percentage of public plants was due to the fact that in former years small-town service was not profitable enough to attract private capital and they had to build their own plants or go without. By 1937 with the growth of transmission networks 69 towns had junked their small generating stations, mostly steam and costly, and had gone over to private companies because the service was more dependable, and sometimes cheaper. This left 173 municipal systems in operation of which 99 were purchasing their current wholesale from the companies. In 1930 under the leadership of Attorney General C. A. Sorensen a law had been initiated and approved by popular vote greatly improving the legal status of municipally owned utility plants and authorizing them to issue revenue bonds.

As to water supply there were 379 municipal and three private estab-

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lishments in operation.[1] Consequently the emergence of the Kingsley dam irrigation and power scheme with all it implied became a matter of concern to the municipalities in respect of both water and electricity.

Since the days of the Granger movement of the 1870's and the Sherman Antitrust Act of 1890, the western populace had been hostile to monopolies. During the 1920's private utilities in Nebraska were buying up municipal plants and consolidation was increasing. A majority of towns refused to sell, but now the question arose whether a statewide "public power octopus," as the hydros were dubbed, would be any better. Guy C. Meyers was charged with paying too high prices for these private companies. A majority had faith in Senator Norris and were for public ownership *per se* so long as they kept their independence. However, they feared they would be swallowed up by the proposed Consumers-hydros grid combination.

The result was widespread hostility to the new plan in which fear, personal jealousy, local pride, partisan politics, and false propaganda played their respective parts. Naturally the utilities and their operating staffs encouraged this resistance, not knowing what would happen to them. Some Diesel engine companies, normally foes of the utilities, did likewise.

A long period of discussion and education was necessary. The district directors knew that the Ontario Hydro System had served as a model for TVA. There a provincial hydro commission was wholesaling power to 284 municipalities from a great transmission network. So they made an investigating trip to Ontario and found that the same hostility to unification had arisen among the municipalities of the province when that system was first proposed in 1906. But its technical and financial superiority had demonstrated its value. Average rates were lowest in the world for such an area and towns had not lost their independence as feared since they did their own distributing. This information was broadcast along with full explanation of the Nebraska plan. When the municipalities, whether served by their own plants or by private companies, were convinced that under the new order they could do their own local distributing if they chose, resistance gradually lessened.

The Rural Districts

THE establishment of the Rural Electrification Administration in 1935 brought powerful support to the hydros. Most farms were far apart, which means high distribution costs. Uncertain farm income because of drought and conditions before described made electrification risky. Low-cost wholesale power was a necessity for most REA districts. Both private and municipally owned plants were pricing wholesale current at around 2 cents per kilowatt hour. The prospective hydro rate would be less than one cent, make thin territory feasible, and, among other things, supply power for pump irrigation; hence rural enthusiasm. In 1938 a legislative bill threatened the hydros. Senator Ed. F. Lusienski on guard at Lincoln since

[1] Consult *Municipally Owned Utilities in Nebraska*, by Dr. Paul J. Raver, Institute for Economic Research, Chicago, 1933, pages 1, 3, 40; also, *A Survey of Municipal Water and Electric Systems (State)*, University of Nebraska, 1937, pages 6, 122.

1933 gave the alarm. This brought over a hundred protesting farmers by auto and train to Lincoln within twenty-four hours in subzero weather. The bill was dropped.

Today the 23 REA districts pay an average of 7.6 mills per kilowatt hour for their wholesale power and retail it at an average of 4.4 cents, about half the cost prior to REA. As of November last they were operating 13,808 miles of line and serving 30,689 consumers. Consumption jumped from 14,000,000 kilowatt hours in 1941 to 49,000,000 in fiscal 1946. Thirty-seven per cent of Nebraska farms are now electrified.[2]

Customers' Savings

THE Consumers Public Power District buys power wholesale from the hydros, now consolidated as the Nebraska Public Power System. Following the acquisition of the 14 private systems during the period 1940-1943 rate schedules were lowered by an approximate average of 29 per cent. The legislative investigating committee, noted above, states: "During the period of its operation rate reductions aggregating nearly $1,500,000 in gross revenue have been made," that is, up to September, 1944. (Page 27.) A policy of equalization and more uniform rates as between localities was adopted to end sharp variations formerly prevailing. Auditor Raymond Arndt estimates that the various rate reductions have saved ultimate consumers a grand total of $3,500,000 up to the beginning of this year.

Expansion of Irrigation

THE now famous Kingsley dam, 3 miles across and 167 feet high, named in honor of pioneer agitator George P. Kingsley, and next to Fort Peck the largest earth-filled dam in the world, has fulfilled all expectations. It has supplied July and August supplemental water needed by the old irrigation companies serving 70,000 acres in the Platte valley district. The new Central or Tri-County District has been retarded by lack of materials because of the war. Yet, 605 miles of main canals and laterals have been constructed which will irrigate about 220,000 acres; 80,000 new acres were under irrigation by the end of 1946. The Reclamation Bureau is now making surveys looking toward the irrigation of several hundred thousand more acres from the surplus flow of the Loup river.

Surrounding the cities of Scottsbluff and Gering in the extreme western part of the state lies one of the largest and most fertile projects yet developed by the Reclamation Bureau. It started in 1910 and its water supply comes from dams on the Platte in Wyoming. Its

[2] *REA Monthly Statistical Bulletin 69*, pages 3, 4, 5.

¶ "IN *1927 there were 298 Nebraska cities and towns which had electric service. Of these, 242 were municipally owned and 56 were private. This large percentage of public plants was due to the fact that in former years small-town service was not profitable enough to attract private capital and they had to build their own plants or go without.*"

history is not a part of this story excepting that the Western Public Service Company, which served the area electrically, is now part of the Nebraska Public Power System.

Taxes

As usual in such conflicts, the report was widely circulated that, should Consumers take over the private companies, taxes by the latter would be discontinued and a general tax rise would be necessary to finance local and state institutions generally. The charge caused great anxiety, especially among schoolteachers and boards of education.

The fear has not been realized. Consumers and the Omaha District, *in lieu of taxes* pay to municipal, school, and state bodies on the same basis as the utilities had formerly paid. They do not, however, pay Federal income taxes any more than other state institutions, and there are no excess or other profits. The amounts paid in 1946 by Consumers and the hydros appear in operating balance sheet summaries given below.

Present Status and Prospect

THE over-all results of the Nebraska development after fifteen years of struggle may now be summarized.

The state's basic necessity, as emphasized in my first article, was and is water for irrigation if agriculture is to survive and the state prosper. That need is beginning to be met. The central semiarid area has an assured supply from storage and stream flow to keep in production 750,000 acres of fertile land. In addition, 150,000 acres of pump irrigation have come into production since Kingsley dam was completed and Dr. George E. Condra, the state's veteran authority on soil conservation, estimates that there is a total of 300,000 potentially fertile acres over the state which can be put into production by pump irrigation.

Another basic need — ample, low-cost power—important to agriculture in this age and to attract industry especially in processing farm and other products, is now being supplied. Finally, danger from floods on the Platte is no more. The economic significance of all this to the welfare of the state and the nation needs no comment. That present results would have been impossible without Kingsley dam and the electric system is shown by last year's revenues: sale of water, $228,064; sale of power, $3,429,223.

The 1946 Balance Sheets

CONSUMERS, the distributing system, after acquiring the 14 companies, set up 8 operating divisions, now reduced to 2, the eastern and the western. In addition there were 3 small divisions which are operated under a lease-purchase contract.

Revenues for 1946 were $7,817,417.39 for 320,744,687 kilowatt hours, sold at an average cost per kilowatt hour to domestic users of 3.2 cents, commercial, 2.7 cents, industrial, 1.3; nonoperating revenue, $104,778.39.

Operating expenses were $4,211,585.55; depreciation, $836,387.56; payments in lieu of taxes, $326,257.33; other deductions, $207,240.10; interest, $913,611.13, *leaving a net balance of $1,427,114.11.*

The *balance sheet* as of December 31, 1946, shows: assets, $48,328,833.55; current liabilities, $1,167,225.72; bonds outstanding, $38,565,000; re-

Establishment of the REA

"THE establishment of the Rural Electrification Administration in 1935 brought powerful support to the hydros. Most farms were far apart, which means high distribution costs. Uncertain farm income because of drought and conditions . . . made electrification risky. Low-cost wholesale power was a necessity for most REA districts. Both private and municipally owned plants were pricing wholesale current at around 2 cents per kilowatt hour."

serves, $4,182,451.22; other liabilities, $236,323.89; *accumulated net revenues, $4,177,832.72; total bonds paid from earnings, $4,264,000.*

The hydro system now operates 6 water-power and 8 steam and Diesel stations. It wholesales power over 1,241 miles of 115-kilovolt and lesser lines. Last year it sold 536,000,000 kilowatt hours at an average of 6.5 mills.

In December, 1946, the system concluded a contract with the newly created Omaha District for interchange of power which, with the new 60,000-kilowatt steam plant noted below, which will be completed by the system in 1948, will give Nebraska a flexible power pool with a total connected capacity of 350,000 kilowatts.

Combined revenues for 1946 were $3,719,180; operating expenses were $1,997,776.92; depreciation, $648,-813.11; taxes, $8,973.40, *leaving an income in excess of expenses of $521,-285.34.*

Combined balance sheets for the hydro districts and the joint system as of December 31, 1946, are: utility plant, $70,448,236; investments and advances, $1,558,752; current assets, $5,891,354; deferred debits, $252,404; long-term debt, $45,521,915; current liabilities, $1,004,799; deferred credits and miscellaneous reserves, $688,075; depreciation reserve, $3,367,907; contributions in aid of construction, $25,-670,917; advances, $946,533; *accumulated net revenues, $950,600.*

THE financial status of the hydro system was further improved by an act of the 79th Congress which reduced the interest rate on the Santee-Cooper, South Carolina, Grand river, Oklahoma, and Nebraska FWA loans from 4 per cent to 2.5 per cent, presently current in private utility financing.

Long-range financial solvency depends on future business, however, and after fifteen years of controversy we must still inquire whether this is a sound operation. The hydro system was recently put to a real test in this respect. Its generating capacity will be exhausted by 1949. To provide for a rapidly growing load the directors proposed to build a 60,000-kilowatt steam plant at Bellevue on the Missouri river south of Omaha and to finance it by issuing $10,000,000 of revenue bonds. Since the system was already obligated to the government in the sum of $42,000,000 this addition required approval by Major General Philip B. Fleming, FWA Administrator. It was not given until General Counsel Alan Johnstone and FWA staff had minutely reviewed the present and prospective condition of the projects and a like examination and approval given by the Federal Power Commission. The bond houses of course made their examination with a net result that the bonds were sold at an interest rate of 2.29 per cent, and construction is now under way. All of which appears to me to indicate that private bankers and government officials alike regard the Nebraska Public Power System as a sound proposition.

Conclusion

Aside from the greater engineering hazards of a plains state, the distinction between Nebraska's "Little TVA" and its gigantic prototype is that, whereas purchases of private companies by the Tennessee project were secured by the Federal government, Consumers agency had to finance its purchases by the sale of its own revenue bonds as will the hydros in the future.

This self-reliance sets a precedent which may prove significant.

Contemplating this unique experiment from a long-range viewpoint, we are forced to recall that a half century ago realistic scientists and statesmen warned that in this machine age national survival depended upon forest and soil conservation and unified, multipurpose control of our rivers—most emphatically those in semiarid watersheds.

Gifford Pinchot, father of conservation, and Senator Norris, its strong supporter, have departed this life but the venerable Dr. Condra of Nebraska University has lived to see the warring factions of his home state compose their differences and unite to meet the challenge in the only way they believed it could be adequately met. A final question: Can Nebraska henceforth isolate itself any more than the original three projects could isolate themselves? The Platte is an interstate stream, a chief tributary of the mighty Missouri which affects nine states.

"I predict that if atomic energy is controlled, and we do not have a war, what will happen will be this: We will use atomic energy for civilian uses. The government will relinquish, and I think Congress will make it relinquish, rigid controls of that energy, once we have locked the bomb into the international safe, you might say, and thrown the key away."

—J. Leroy Johnson,
U. S. Representative from California.

The Antidiscrimination Trend In State Legislatures

Do public utility companies provide a proper testing ground for experiments in compulsory antidiscrimination orders affecting the employment of minority groups?

By ROSCOE AMES*

Less than a year ago the Congress of the United States laid to rest a war-born executive committee against discrimination in hiring practices. The President's Committee on Fair Employment Practices, created in 1941 by executive order to prevent discrimination because of race, creed, color, national origin, or ancestry, was erased by the simple process of refusing to appropriate more funds for it. Created peremptorily, in the heat of the war emergency, it never obtained congressional sanction beyond reluctant tolerance and limited appropriations. It proved of questionable value in welding the nation together for the supreme effort of all-out war.

The aims of the President's committee were high—to open employment vistas to the privileged and underprivileged alike; to live up to the letter and spirit of the principle that all men are created equal and have a right to live that way. It sought to enforce stringent penalties for breaches of the employment ideals it stood for. The passing of the committee was mourned genuinely by those who looked upon its purpose as something very fine and worth while. Its demise was also greeted with some relief by many of the same people who realized that, in spite of its excellent aims, it had failed.

Having been expelled from the Federal picture, FEPC and its supporters have turned to the states and cities, to begin once again the long climb back to national prominence. Five states presently have antidiscrimination statutes on their books, and two of these are seeking modification and strengthening. No less than twelve other states have had bills covering the same subject dropped into their hoppers during the current term of their legislatures. At least three major cities have no-discrimination measures, and others are considering municipal bills.

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It is enough of a trend to be taken quite seriously by utilities. For, when such legislation appears and is passed, its proponents frequently select the local utility as the "ideal" proving ground for the gospel it preaches. It has happened before, with noteworthy consequences. It surely will happen again. Therefore, a closer look at what anti-discrimination laws mean to utilities would seem to be in order.

The Federal FEPC did not work for a variety of reasons. For one thing, the government did not put its own house in order according to FEPC standards. Seeing this, private business often talked back to FEPC regulators, telling them in effect, "Physician, heal thyself." For another thing, FEPC ignored consideration of "accepted business practices" in hiring, and earned the wrath of employers who labeled the committee's activities "unwarranted and impractical governmental interference." FEPC also ignored the human element, as reflected by workingmen and women who, morally correct or not, rebelled at what they considered intrusion upon their rights. FEPC often tried to force its program in delicate situations, sometimes precipitating outbreaks of the very intolerance it sought to eliminate.

ONE Washington, D. C., utility bore the brunt of such a forceful attack by FEPC right in the middle of the war. The Capital Transit Company, operating practically all public transportation in the crowded metropolitan Washington area, was selected as "guinea pig" for a wartime social test. In November, 1942, FEPC notified the company that its policy of hiring only white persons as streetcar and bus drivers was discrimination, and ordered the hiring and training of Negroes. The company needed men badly at the time, since the draft was cutting deeply into its operating personnel. It accepted FEPC's direction by employing two Negroes as driver-trainees. But the all-white transit union, made up largely of natives of the District of Columbia, Maryland, Virginia, and points South, refused to train the new employees. When FEPC insisted that the new men be retained and trained, the union threatened a city-wide strike. The pressure was then on FEPC to take the responsibility for tying up perhaps a million war workers in the nerve center of the country. Entirely unofficial reports have it that only pressure stemming from the White House itself eventually made the committee acquiesce in stalling its own case.

In another major case involving an allied public service industry, the FEPC tried to insist during the wartime man-power shortage that southern railroads employ Negro brakemen. This time the rail brotherhoods resisted the order. It led to widespread discontent, mass meetings, and in the opinion of many stirred up a great deal of unnecessary trouble. It never was enforced.

A similar impasse could arise in any city or state with a local FEPC law. Without the incentive of war to keep men on their jobs, an obstinate committee could legally tie up a transit system, paralyze telephone service, interfere with gas and electric power distribution. This suggests the argument that utilities are not "ideal" guinea pigs for social legislation at all. Their mandate is to render public service, when and where needed. Does not this far

outweigh the incidental angle of possibly beneficial social experiment?

For example, if a guinea pig nonutility—making shoes, ships, or sealing wax—were to fall sick and even die or at least suffer a long period of economic collapse, following an injection of FEPC super toleration serum, the community as a whole might suffer distress but not paralysis. If on the other hand the guinea pig was a gas, electric, telephone, or transit company and the experiment proved to be a failure, there is no telling how much injury the community might suffer before the situation would be put in order again.

This suggests that the granting of power to any board to carry out such experiments is a matter to be weighed far more carefully with respect to utilities than to other types of business.

Does a utility not have also an obligation to the public it serves, to conform to the group *mores,* in order to render the best service possible? When it hires a clerk in its front office, or a meter reader, an installer, or a repairman, it must consider the impression that employee will make on its customers. Inevitably, though it seldom is justifiable, customers will form their opinion of the company on the basis of their opinion of the employee. If the fellow is bright, cheerful, efficient, the customer perhaps thinks better of the company because of it; if he is churlish, impolite, or sloppy, customers resent both the workman and the company which was indiscriminate enough to hire him.

Aside from employee personality factors, which of course any good employment manager can spot quickly, the company must cater to the quirks of personality of the customers as far as is consistent with efficiency. It must consider customers' attitude toward race and color questions, as well as judge accurately the aforementioned *mores* of the community.

This judgment in hiring requires two particular types of discrimination. For instance, it would be *affirmative* discrimination, and incidentally good public relations, for a gas company to hire Negro meter readers to work in Negro neighborhoods, or Italian meter readers in predominantly Italian sections. There, indiscriminate hiring might arouse proracial feelings. It would be *negative* discrimination to *avoid* sending Negroes in neighborhoods where their presence might arouse antipathies or prejudices, or, in other words, antiracial feelings. Only in case community *mores* in a certain locality were liberal or indifferent

¶ "The *President's Committee on Fair Employment Practices, created in 1941 by executive order to prevent discrimination because of race, creed, color, national origin, or ancestry, was erased by the simple process of refusing to appropriate more funds for it. Created peremptorily, in the heat of the war emergency, it never obtained congressional sanction beyond reluctant tolerance and limited appropriations.*"

enough to permit a member of any minority to read meters without incident could the company afford to be completely indiscriminate about hiring for this position. By "incident" we mean complaints, interference with service, and spite vandalism, directed at employee members of minority groups but affecting the company.

GOOD utility service requires door-to-door satisfaction, and to get it the company has no alternative than to be discriminate in its hiring policies. Left to its purely economic choice, a utility would be better off if it could use more liberal employment practices. It would have a broader field for recruiting personnel, which is always a healthy thing. And, as already mentioned, it would be excellent public relations. But it does not always have such choice. It simply cannot move faster or further than the community attitude has moved. If it does, it runs into trouble. Some individual businessman may risk the censure of one segment of the public and move ahead of local *mores,* counting on heavier support from a more sympathetic segment of the public to counterbalance his loss. A utility, which must serve all without exclusion, obviously takes chances with its own good public relations if it indulges in any such crusading—particularly in an aggressive or sensational manner. So it must adopt employment policies which will be condoned if not approved by the great bulk of the customers it serves. Any way you take it, it is ticklish stuff to handle.

A good example of this is that same Capital Transit case in Washington, D. C. There the basic southern attitude not only has been countenanced by the population for decades, but it has been implemented by act of Congress. White and Negro segregation in District public schools has been authorized by Congress. Funds for the dual educational setup have been appropriated year after year without question. Congress has not seen fit to interfere with the unofficial discriminatory policy of Washington theaters and restaurants. The highest Federal court for the District once specifically upheld a Washington theater's right to establish an exclusive admission policy. Ditto for the so-called "white covenant" in the sale of Washington real estate. Here even the U. S. Supreme Court winked its eye and "denied certiorari." Even in the face of a current argument over racial discrimination at a local playhouse, Congress has maintained a discreet silence and refused to get involved. It was in the face of all these firmly established *mores* of the District of Columbia that the FEPC chose to take the "progressive" step against a local utility. Naturally, it met with almost dire results. A similar transit employment situation in Philadelphia provoked an ugly race riot, although the FEPC was not involved in that.

STATE commissions against discrimination can be equally arbitrary if they are given enforcement powers and have the temerity to use them. Quite often, however, when these commissions are manned by reasonable citizens who are not irrational zealots for the antidiscrimination cause, they can do the community a service through advice and education. Such a commission can attempt to improve and uplift community *mores,* to condition the community toward a more liberal and tol-

FEPC Turns to States

"HAVING been expelled from the Federal picture, FEPC and its supporters have turned to the states and cities, to begin once again the long climb back to national prominence. Five states presently have antidiscrimination statutes on their books, and two of these are seeking modification and strengthening. No less than twelve other states have had bills covering the same subject dropped into their hoppers during the current term of their legislatures."

erant attitude concerning all races, creeds, and colors. In matters of discrimination, the firm shepherdly hand of guidance is needed, not the whip hand of force.

A step in the right direction might be seen in the handling by the New York State Commission against Discrimination of a series of charges against the Brooklyn Borough Gas Company last year. Three organizations filed charges against the company, —the American Jewish Congress, the National Association for the Advancement of Colored People, and a section of the Communist party. The Communists asserted that "the doors of the company have been completely barred to Jews, Negroes, and Italians." The company president, Mary E. Dillon, promptly and voluntarily asked the commission to investigate. After a prolonged study lasting from April to September, 1946, the commission found these charges to be "without the slightest foundation."

The commission found that the neighborhood served by the gas company had shifted from a predominantly white, Christian population when the company started business in 1898, to predominantly Jewish. The company, it declared, had not entirely reflected this change in its hiring policies. Instead it had hired its new employees mostly on the basis of recommendations of its older employees, which "insured the perpetuation of the original racial and religious composition of the personnel." The commission found no evidence that this policy was a deliberate or conscious effort on the part of the management to limit employment of nonwhites and non-Christians, although it unquestionably led to such a result. Through this interesting study of the Brooklyn situation, the commission learned some things itself.

SPECIFICALLY, the commission laid down four recommendations: (1) abandonment of the so-called "inbreeding" method of hiring on advice of other employees; (2) informing all foremen and supervisors of the state law regarding discrimination in hiring and promotions, plus the intent of the company to eliminate factors of race, creed, and color in personnel matters; (3) set up a central employment bureau in the company to eliminate the possibility of bias on the part of department heads; and (4) make use of neighborhood sources, such as Negro and Jewish newspapers, the Urban League, and bona fide employment services.

Replying to the commission's report, the company president pointed out that the company had asked for the investigation, that some of the commission's recommendations had been put into effect before the final report was released, and that the company would comply in every way with the state law against discrimination. Miss Dillon also pointed out that the commission had in effect recognized the invalidity of the charges by issuing no direct order to the company. "The commission," she added, "has misconceived the nature and scope of its authority under the statute. . . . The very generality of this attack betrays an illegal prejudgment by the commission of public utilities generally and this company in particular."

If this can be considered a step forward, it must be admitted that it is a stormy one, and not taken without some justifiable opposition. The Brooklyn example has been noted at some length to show the validity of the principle that public utilities are frequently targets for antidiscrimination action on the part of government, as well as the merit of some recommendations of antidiscrimination commissions. There is room for commissions to accomplish beneficial ends in a purely advisory capacity.

LAST month this New York State Commission against Discrimination issued its first annual report. It had received 567 complaints, acted on 290 of them successfully. In all cases success was achieved without punitive action. Since it handled only a few hundred cases instead of the 15,000 or more that had been anticipated, most of its accomplishments were in the preventive field rather than the curative field. Meeting all over the state with employer and trade groups, government agencies, unions, and employment services, the commission attempted to act solely by "conference, conciliation, and persuasion." But some critics questioned the wisdom of equipping the commission with such broad powers when they were not to be utilized. One management consultant branded the entire theory of legislative control of racial bias as a "tempest in a teapot," and complained that it cost the state $230,000 a year to curb "an infinitesimal amount of discrimination."

Despite the obvious implications of this working commission, which point the way toward prevention and education, antidiscrimination efforts in other states are taking a turn toward the more punitive form of statute. Even in California, where a Fair Employment Practices Act was rejected by the electorate in November by a more than 2-to-1 majority, a similar bill is being considered by the state legislature.

Other states where FEPC bills have been dropped into legislative hoppers are Colorado, Connecticut, Iowa, Maine, Michigan, Missouri, Minnesota, Ohio, Pennsylvania, Rhode Island, Utah, and Washington.

In Utah one bill on the subject has been killed in the state senate despite the approval of an interim legislative study committee. In Minnesota a bill made its way through the senate but is snagged in the house, while a substitute is being readied. Two Pennsylvania bills would set up a 5-man commission, and would also bar any mention of race, color, or religion in advertising for positions. In Michigan, state supreme court action barred inclusion of an FEPC referendum on the ballot, so proponents are seeking its passage in the legislature. One bill to repeal the Massachusetts antidiscrimination law has been introduced in the state assembly, but is not given much chance of passage.

THERE is little sentiment anywhere to campaign openly against FEPC legislation. Opponents are likely to be misunderstood in stating their position, and suffer from the consequences of such misunderstanding. Perhaps a neat summing up of general industrial opinion is the statement of Jarvis Hunt, counsel for the Associated Industries of Massachusetts, which includes utilities in its membership. Explaining that his group favored repeal of the state FEPC Act but would not lobby for the repeal bill, he declared: "We still feel that the act is needless and unwarranted interference with industry, that it has and will discourage industrial expansion, and that it is unconstitutional. Industry finds it a burden but will do everything possible to obey the act and make it work."

It is believed that Mr. Hunt was referring to the punitive sections of the Massachusetts statute in particular, since it can be shown that recommendations of antidiscrimination commissions which broaden hiring policies to the limits (but not beyond the limits) of community *mores* constitute sound business advice and are worthy of voluntary adoption. It might therefore be the hope and purpose of utilities, which will surely be affected by new and stringent FEPC legislation, that, if antidiscriminatory measures are likely to be written into local or state law, they will avail themselves of the opportunity to be heard in support of a reasonable, nonpunitive statute. They should not stand mutely by while legislators fashion a weapon against discrimination that may boomerang against the public interest and safety.

Finally, it must be kept in mind that not every discrimination is an unlawful discrimination. If this distinction were not sound there still could not ever be such a thing as fixing a practical public utility rate structure. In the field of ordinary business employment, some types of discrimination have always been practiced and probably always will be. This explains why in department stores the pretty girls always seem to appear behind the cosmetic counters while older or fat salesladies generally turn up behind the pots and pans. This probably causes considerable comment and disappointment, but it seems to be accepted business practice. Certainly, if you tried to pass a law against it you would have your work cut out for yourself, trying to enforce it or even to explain it.

Washington and the Utilities

Lame Duck Ghost Reports

THE New Deal song may be ended but the melody lingers on, in a number of congressional committees, thanks to hold-over personnel. And the Republican leadership in Congress does not seem to like the music very well, judging by the conspicuous absence of applause.

What has happened here is that the staff members of former committees, organized during the heyday of Democratic control in Congress, still have the run of the files, and some are making the most of it. Certain reports and memoranda associated with these committees are leaking out—long after the former control of the committees was supposed to be extinct. The result is a problem for the new leadership.

Senator Wherry (Republican, Nebraska), new chairman of the Senate Small Business Committee, called attention to his problem of a hold-over staff several weeks ago. He frankly charged that the former committee of the same name, under the chairmanship of Senator Murray (Democrat, Montana), had been pretty well influenced if not loaded with "fellow travelers" and others who are not particularly sympathetic with American business, big or little.

Two "ghost" reports, which have come out of this committee since the beginning of the new session, have irked the new chairman, Senator Wherry. Among other things, they dealt with matters of special interest to both the gas and electric utility industries. The first of these was an "unofficial" report dealing with the alleged impact of corporate monopoly on the newsprint and raw pulp shortage. It did not have the endorsement of either the old or the new committee as a whole. But it did naturally stir up considerable interest among the pulp-hungry daily newspapers of the nation, as well as the still more pulp-starved weeklies and magazines. This report advocated a vast expansion of public power development in Alaska as a promising panacea for the paper shortage.

As a result of this unofficial newsprint report, Senator Wherry tried to clear up misunderstandings and false impressions by calling hearings which would reflect the sentiment of the newly organized Committee on Small Business. Furthermore, in these hearings it is quite likely that some emphasis will be placed on the willingness of private business to develop both hydro power and newsprint manufacture in Alaska.

A MORE recent ghost report from the Senate Small Business Committee apparently did not even have clearance from the former chairman, Senator Murray. This was a staff report prepared out of memoranda in the old committee's files, dealing with the shortcomings of the War Assets Administration. Information as to the gist of this report was allowed to "leak" to two "liberal" affiliated daily newspapers published in Chicago and in New York. Their coverage of the leaking data (which was, of course, referred to in the nature of a scoop rather than a leak) had some pretty critical things to say about WAA.

It was charged that WAA did not act in the public interest, but rather tended to foster monopoly when it recently sold the Big and Little Inch pipe lines to a private company bidder. Although this sale was made at admittedly good price—in fact, probably the best return by far

the government has obtained on its investment in any war surplus items—the ghost report suggested that public interest might better have been served if the pipe lines were otherwise disposed of. Continued public ownership and operation, or at least coöperative control, doubtless would have been more pleasing to the former committee staff, authors of the report.

So now Senator Murray feels called upon to correct these unofficial aspersions cast—in the unauthorized name of his committee—upon one of the best pieces of business the WAA has been able to do since its creation. Further hearings are likely to be held which will develop testimony on the Big and Little Inch pipeline sales, justifying the WAA procedure.

Whether any positive steps will be taken to put the quietus on further leaks or ghost reports was not definitely known late in March. But Senator Wherry gives the impression of a man growing exceedingly tired of running around slamming doors after committee ghosts have opened them.

The FPC Gas Probe Reports

ANOTHER set of reports—also unofficial but quite respectable and legitimate as to avowed authorship—is stirring some interest in congressional circles. It is the four preliminary staff reports of the Federal Power Commission dealing with its special natural gas investigation which has spread over portions of the past two years in various phases. These reports, released by FPC Chairman Smith for comment and suggestion by the industry and other interested parties, are not at all final and at least three of them are hardly controversial.

In the noncontroversial category are: (1) a summary of estimates as to the nation's gas reserves in which the FPC staff more or less adopted the industry's (DeGolyer) estimate of 144 trillion cubic feet or more; (2) a description of natural gas technical process covering production, gathering, distribution, and so forth; and (3) a review of state gas conservation laws which, incidentally, conceded and affirmed the generally accepted principle that gas conservation is a function of the state and should so remain.

Only when the states fail by voluntary action or compact with other states to take necessary measures (to prevent abusive waste) would it "become necessary for some Federal agency, under appropriate congressional direction, to bring about an effective coördination of conservation measures."

It was a report dealing with § 1(b)(1) of the Natural Gas Act which drew some fire from Representative Rizley (Republican, Oklahoma), author of certain pending amendments to curb FPC's alleged jurisdictional ambitions over the production and gathering of gas. The FPC staff report attempted to quiet fears on this point by suggesting that Federal legislation is not necessary. The Oklahoma Congressman recently said as to this on the floor of the House on March 10th:

> If the present members of the commission are agreed, as the report would seem to indicate, that the FPC under the clear intent of the Natural Gas Act is not authorized to take jurisdiction over production and gathering, then they should have no objection whatever to have the act amended so that it will be plain and unequivocal.

THE staff report did not concede that FPC has reached out for powers which Congress did not intend it to have. It admits confusion on the part of the oil and gas producers, who fear FPC control; but it feels that an administrative clarification, presumably by an FPC statement of policy, would clear this up. The staff report impliedly repudiates the position taken by FPC counsel, who made a distinction between "production-gathering" activities (admittedly exempt) and "sales" in connection with such activities (which counsel suggested were not exempt from FPC control). The staff report concedes these three are inseparable and all exempt.

Under the view taken in the FPC staff report, all movement of gas for sale in

interstate commerce would be determined (as to status) by the FPC. All activities by corporate affiliates (not arm's-length bargaining), even production-gathering, would be subject to FPC regulation. As to nonaffiliate activities (arm's-length bargaining), the FPC would retain the right to decide when production-gathering left off and "interstate movement" began. Such discretion is necessary, said the report, because no standard could be applied in all cases. Some short movements, through big pipes under high pressure, might still be part of the "gathering" process, while other collection activities for sale to pipe-line companies might be an "interstate movement," even though both sale and delivery to buyer were completed within the same state.

Self-support for Reclamation?

And still another government bureau, whose activities are of interest to public utility circles, had difficulty about the release of reports to Congress. Several weeks ago some officials within Interior prepared a rather extensive document, entitled "Power Program 1947-1953," which calls for nearly double the present Federal hydroelectric capacity—chiefly on reclamation projects—at a cost of $800,000,000 over a 6-year period.

One official thought that, in view of the tight-fisted attitude of the House Appropriations Committee on pending Interior appropriations, it might be a good idea to impress Congressmen with the importance and proportions of the department's long-range plan. But still another Interior official attempted to blow the horn on such a play, pointing out that it would "tip the hand" of the department's public power strategists and tend to confirm arguments of the department's critics to the effect that it is more concerned with power development than reclamation.

While this intradepartmental argument was going on, somehow or other the "secret" document got into the hands of the technical press. The resulting publicity has not tended to brighten the department's chances for 1948 (fiscal) appropriations. A 50 per cent slice for Reclamation Bureau seems likely in the House, although the Senate may put some of it back as in previous years before the Appropriation Bill is finally enacted.

Chairman Jones (Republican, Ohio) of the House Appropriations subcommittee on Interior has complicated the Interior Department's public power policy prospects with a bill of his own (HR 2583). This would make the reclamation prospects self-sustaining. Hearings were held during the latter part of March on the Jones Bill, along with three other bills (HR 1772, 1886, 1977) before the House Public Lands Committee. As witness for the Interior Department, Reclamation Commissioner Straus opposed the Jones Bill, on the ground that it would abridge existing laws requiring power rates to be set as low as possible. He also opposed the Rockwell Bill (HR 1886), which would put the emphasis of the Reclamation Bureau on irrigation, rather than on power. He predicted that Rockwell's bill would eventually get the Reclamation Bureau out of the power business. Straus indorsed the Lemke Bill, HR 1977, which would bolster Reclamation Bureau's position in power functions, and would necessitate no change in present power rates. The Lemke Bill (rumored to have been drafted within Interior Department) is similar to last year's Robinson Bill (HR 6574, 79th Congress), which was successfully fought by western reclamation interests.

Ex-Congressman Robinson, defeated in the last election, is now working in Washington for the Interior Department.

Speaking of Interior Department personnel, rumor has it that some discussion of this subject has occurred over in the House Appropriations Committee. It appears that some members of the Interior Department subcommittee have questioned the department's continued employment of alleged "fellow travelers," notwithstanding previous notice of congressional displeasure.

Exchange Calls And Gossip

Telephone Recording Huddle

FEDERAL COMMUNICATIONS COMMISSION again is on record in favor of telephone recording devices, according to a new directive, but it is likely to be pretty finicky about just what kind of recorders it okays. The commission has slated a huddle of telephone and recording engineers for April 21st to try and set up standards for controlling them. What the FCC wants is rules that will hook up recorders directly to telephone lines, curb use of recorders which are not connected with the phone line, and establish some foolproof system of warning the public when recordings are being made. These restrictions are likely to make settlement on salable types of recorders more than a little difficult—at least expensive. As things stand now, telephone companies may not set standards or tariff schedules which would bar recorders now considered legal by the FCC. Such devices are rather hard to find, however, amid the confusion.

REA Telephone Bill Pops up Again

THE coming of spring to Capitol Hill has inevitably led to the sprouting of many a hardy perennial of the legislative variety—those rugged bills which find their way into congressional hoppers with the regularity and promptness of the first crocus, yet which seldom get much farther than the budding stage. Usually they appear in identical form, Congress after Congress, never grafting a new shoot, nor dropping a leaf. But occasionally, like drooping plants subjected to the agronomical genius of a Luther Burbank or a Henry Wallace, these bills appear in new raiments of glory, their tendrils streamlined and different.

Such is the case with the veteran Rural Telephone Bill (HR 2585) of Representative Poage, Democrat of Texas, which would permit loans by the Rural Electrification Administration for the purpose of providing rural telephone service. The bill has been around before, in other sessions of Congress, and in fact was introduced in its old form (S 43) this term in the Senate by Senator Lister Hill, Democrat of Alabama. But where Senator Hill's bill ran eight pages, Representative Poage's bill runs a little over three pages. Instead of allotting the sum of $50,000,000 for REA telephone construction, Representative Poage's measure merely states that telephone loans could be made out of available funds. And where the Hill Bill provided for allotment of some of these funds to the states for rural telephone service improvements to existing telephone companies, the Poage Bill goes much further. Under its terms, loans could be made by REA for the purpose of financing the construction, acquisition, rehabilitation, expansion, and operation of telephone lines, facilities, or systems.

Despite these and other new furbishings in the bill, it still looks like a likely candidate for peaceful slumber throughout the session. Even some known advocates of the extension of REA to the telephone field were heard to say they had little hopes for the survival of HR 2585. The removal of that $50,000,000 appro-

priation from the earlier version (which would have sealed its death warrant automatically in this year of economy) has not brightened its prospects. Still, it exemplifies the tenacious spirit of proponents of its philosophy, and should serve notice to private communications interests to keep diligently at their task of improving their service.

Break for Western Union

THE Senate Interstate and Foreign Commerce Committee is taking a leaf from the book of the announcer on the Lone Ranger radio program and hearkening back to the days of the old West. If it follows through on Senate Bill 816, it will mean some relief if not gold for the coffers of the Western Union Telegraph Company. Senate Bill 816, introduced jointly by Senator White, Republican of Maine, and Senator McFarland, Democrat of Arizona, will remove an old telegraph statute which has been on the law books since the gun-toting days of 1864.

At that time the Federal government gave Western Union the telegraph rights to cross public lands and keep up with the building of a continental railroad then being hacked out of the great American wilderness. In return for these rights, the company agreed to let government messages flow along its wires for 80 per cent of standard rates. The government's equity in these rights was paid off in full long ago, but even today, eighty-three years later, the government is still getting preferential rates for telegraph service. Senators White and McFarland think it is time for Uncle Sam to pay full price, for one reason because telegraph service is the only service where the government still gets a knockdown in rates.

Communications men say it is not only time enough, but it should have been done a long time ago. Higher telegraph rates for Federal messages now will increase company revenue by perhaps $1,000,000 a year. But if this venerable old agreement had been headed for the last round-up before the war, the company would have grossed millions more during the past few years, for the bulk of war contract work was carried on through wire service. Some estimate the difference at $50,000,000. What this amount would have done to "firm up" the presently shaky telegraph industry is something worth a lot of head shaking.

STILL, even at this late date, it can be considered a substantial step in the right direction. Congress is about to recognize an injustice, or at least an inequity, in preferential rates for Federal telegraph service, and thus give the company every opportunity to keep its head above water. The bill also is an indirect vote of confidence in Western Union, for there is a growing sentiment on Capitol Hill that the company has a chance to stay on its own feet. There are men on the Hill who will tell you that if Western Union can retrench in its overhead expenses (consistent with good service), spend every nickel it can afford to modernize its equipment and service, and be in healthy enough position four years from now to refinance its debt, the company is likely to come out all right.

Another, less altruistic, angle about it is that Congress is in no particular hurry to pick up such a warm potato if it can avoid doing it. No matter what happens, Congress will not let telegraph service die; it will go on under government subsidy, government ownership, or transfer to other operating communication businesses. A way around these three prickly horns of dilemma, in the successful recovery of the company, would be greatly appreciated by all concerned.

Third Raise in Year Asked By CTU

THERE is labor trouble on the horizon, however. The Commercial Telegraphers Union (AFL), representing some 50,000 telegraph workers across the country, is still in the midst of negotiations for another wage increase. The

CTU originally asked for 25 cents an hour wage boost, improved welfare and pension benefits, and a 40-hour week, instead of forty-five and one-third hours. Federal conciliators have been called in, but the situation is still touch and go at this writing. A New York CIO telegraph union, a branch of the American Communications Association, is dickering in preliminary stages for a hike in pay for its 7,000 metropolitan workers, but a costly strike in 1946 probably will keep the ACA group from walking out this year.

Incidentally, Western Union's net loss last year now has shrunk to $11,000,699, according to preliminary figures released by the company. An FCC decision on whether or not the company may close some of its branch offices in large and middle-sized cities should be coming up soon. Hearings brought out union objections to the closings, but occasioned only comparatively lackadaisical comments from the general public.

Phone Tax Plea Has Inning Soon

TELEPHONE bills are still showing their wartime excise taxes these days, following President Truman's signature of the Grant Bill (HR 1030), now Public Law 17, keeping the "luxury" levies on indefinitely. But telephone companies are hoping for an early hearing before the House Ways and Means Committee to ease the tax load on communications. In baseball parlance, the question of reciprocal trade agreements is "at bat" before this committee. "On deck" and next up at bat will be the new tax bill, it is hoped. Batting third, or "in the hole," is the committee's inquiry into the current practice of including wire services in the "luxury" classification of excise taxes. It is the hope of telephone people that a month or so from now they will no longer be "in the hole," but at least on their way to first base. The fact that wire services were able to get such a tax double check from the committee indicates that the group has at least a modicum of sympathy for the telephone companies' position.

Another minimum wage bill of interest particularly to independent telephone firms has made its appearance in the House. This one (HR 2578) was introduced by Representative Landis, Republican of Indiana, and, though he is considered a power in the new House Labor and Education Committee, there appears to be little steam behind his measure, at least for the time being. Landis' bill calls for a 5-cent hike in the national minimum wage to 55 cents an hour. It represents a compromise position between those who seek to push the minimum to 65 and 75 cents, and those who do not want to push the minimum up at all. Until the really vital labor bills are finally written into the nation's laws, these measures are likely to get scant attention from a busy Congress. When they do get consideration, their success will depend largely on the pattern of wage adjustments made in the major industries this spring and summer. If there is another general upward trend in wages, especially in telephone wages, there may be some agitation to raise the minimum wage, which would have the effect of raising the wages of some independent telephone company workers.

Con Men Invade Phone Field

A LUCRATIVE new telephone racket turned up last month in such big cities as Philadelphia, Detroit, and others. A man representing himself as an advance installation agent for the local telephone company was collecting $10 deposits from phone-hungry folks as initial payments on their prospective telephones. He solemnly signed receipts bearing the name and address of the company. City police have been alerted to pick up the offenders, and most companies have issued warnings to waiting phone seekers not to pay anything until they get a bill. Presumably these company warnings were made by mail, not by telephone.

Financial News and Comment

By OWEN ELY

1946 Trends in Earnings And Costs

THE Federal Power Commission recently released its composite statements of sales, revenues, and income of all class A and B utilities for the calendar year 1946 and for the month of December. (See chart on page 505.) There is quite a contrast between the trends for the month of December and for the calendar year, as revealed by the percentage changes in each case:

	Per Cent Change From Previous Period	
	Year, 1946	*Dec., 1946*
Sales in kilowatt hours	D 1	10
Income		
Revenues—residential	7	6
" —commercial	12	10
" —industrial	D 4	10
" —total (including miscellaneous)	4	9
Miscellaneous income	3	6
Deductions		
Expenses—fuel	11	41
" —labor	16	16
" —other	3	D 3
" —depreciation	1	1
Taxes, amortization, etc.	D 15	14
Interest	D 8	D 4
Net income	21	D 14
Balance for common stock	27	D 13

In December total income (revenues plus miscellaneous income) was about $26,000,000 larger than in the previous year. On the other hand, fuel costs gained $13,000,000, wages $8,000,000, and taxes $45,000,000. There was a saving of $2,000,000 in miscellaneous expenses and $29,000,000 in fixed charges (principally in tax-saving amortization items). Obviously, year-end adjustments in both years threw the month hopelessly out of kilter. January results, which may be available in a short time (December was delayed), should be a much better guide to current trends, since taxes will be on a uniform basis of 38 per cent, and year-end adjustments will be absent.

IN the calendar year there was a gain of $120,000,000 in income. Fuel required $41,000,000 more, while the labor bill increased $84,000,000 and miscellaneous expenses $14,000,000. The change in depreciation was relatively small. Tax savings amounted to $45,000,000, interest was down $17,000,000, amortization items dropped $68,000,000, and preferred dividends $4,000,000. The result was a gain in net income of $110,000,000.

In 1947 utilities will lose the benefits of tax reductions, and savings from refunding operations will probably be less significant. The trend of fuel and wages will probably be all-important in determining whether net income will decline from last year's figures. Such a decline appears likely in the early 1947 figures in view of the highly favorable results of early 1946.

Analyses of Utility Securities

LAWRENCE C. COOPER of Argus Research Corp. has prepared a 6-page analysis of American Gas & Electric Company. He points out that the system is closely integrated, practically as though it were a single operating company, and the properties acquired in 1907 have remained basically the same for forty

years. (The system did not share in the promotional activities of the 1920's.) It has built up its own service company and hence the separation from Electric Bond and Share Company (recently effected through issuance of rights) should not result in any management problems. The system was compact except for two outlying properties, Scranton Electric Company and Atlantic City Electric Company; the former was sold last May and the latter will be disposed of in the near future by sale of part of the shares, with the balance to be distributed (along with cash) as dividends on American Gas stock over the next eighteen months.

Earnings were $3.75 a share last year and $2.15 was paid in dividends. Mr. Cooper estimates that the sale of Atlantic City and use of the proceeds to retire the preferred stock would reduce share earnings on the common only about 25 cents, while if Indiana Service Corporation is acquired, this loss might well be recouped. Even if labor costs rise 10 per cent in 1947 and coal expenses increase $500,000 (after applying fuel clauses to a majority of the kilowatt hours sold) earnings are not expected to show much recession from the 1946 figure of approximately $3.75.

Kalb, Voorhis & Co. has prepared an appraisal of Niagara Hudson Power Corporation, reaching the conclusion that the common stock has a "reasonable work-out value" around 15 (67 per cent above the recent market level of 9). The work-out period is estimated at 12-15 months. The estimate of value is based on application of a price-earning ratio of 13.

UNDER a Securities and Exchange Commission order, the time limit for Niagara Hudson to sell all the common stock of its important subsidiary, Buffalo Niagara Electric Corporation, expires May 1st. Meanwhile, however, the top company's plan to merge Buffalo Niagara and the two other major operating companies is before the New York Public Service Commission. This commission may require certain balance sheet changes (in plant and depreciation accounts) and the company has set aside a special surplus account of over $85,000,000 which can be employed for making such adjustments. Kalb, Voorhis & Co. thinks the reserve will prove to be quite ample.

The firm expects that the SEC will grant (on application) a six months' extension of the order to sell Buffalo Niagara Electric. This would afford time to work out any necessary changes in connection with the merger, which the firm thinks might be approved by midyear. Earnings may be capitalized at 13 times because of the company's huge size (it distributes more electric power than any other company in the world) and strong growth trend. However, dilution will result from retirement of $60,000,000 preferred stock claims (call price and arrears) and an estimated $25,000,000 bank loan.

With the new common stock appraised at $24.50 (13 times $1.88) the new operating company stock might be offered to stockholders at $9 a share, making the rights worth $15. Or if the bank loan were permitted to remain the price of the new stock would need to be only $6.50.

While reduction of net plant account in full compliance of Federal Power Commission findings might result in an above-average rate of return on the estimated rate base, Kalb, Voorhis points out that 1945-6 rate cuts averaging about $3,500,000 annually were well absorbed. Regarding the proposed St. Lawrence waterway development, this would provide additional low-cost power, already needed to supply demands, and, in any event, the new power would hardly be available for some five years. This would afford ample time to gear the 1,880,000 kilowatts contemplated St. Lawrence power with the present Niagara Hudson capacity of 6,363,000 kilowatts.

IRA HAUPT & CO. has issued a memorandum on Tide Water Power Company common stock. Earnings for the twelve months ended November 30, 1946,

were $1.25 on a *pro forma* basis compared with $1.71 in the previous calendar year. Earnings in earlier years were somewhat erratic, ranging between 47 cents in 1940 and $1.67 in 1944. The stock has now been placed on a 60-cent annual dividend basis. At the prevailing price of 9¼ the stock yielded 6½ per cent and sold at 7.6 times earnings.

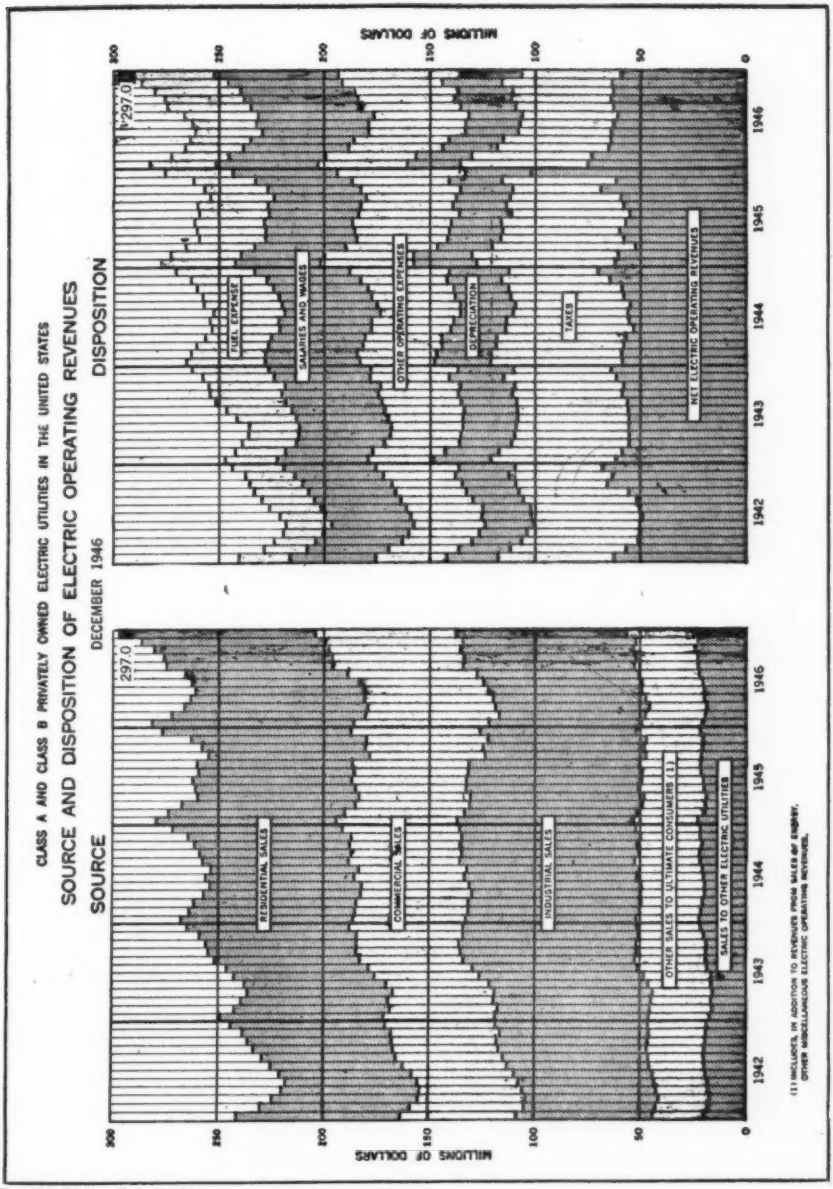
Josephthal & Co.'s monthly utility review for March contained comment on Detroit Edison Company, El Paso Natural Gas Company, Florida Power Corporation, Philadelphia Company, and United Corporation. In his general comment on the utility situation, Truslow Hyde pointed out that electric utilities are operating with inadequate physical plant and are now forced to raise additional capital for construction merely to take care of already realized growth. Therefore, he thinks, increased earnings from the additional investment cannot be anticipated. With any decline in industrial activity later this year, the uptrend in revenues should be reversed and the higher level of costs would reduce net earnings.

There is a possibility that Mr. Hyde has overlooked a parallel between the present situation and that which existed in 1944-45. At that time it was feared that, with the ending of abnormal wartime production of munitions, both gross revenues and net income would fall sharply. This forecast, as was pointed out at the time in this department, did not take into account the extremely small margin of profit on much industrial business.

After the war, loss of the munitions business proved to be almost a blessing in disguise, for increased residential business was far more profitable. Recently the utilities have again been straining their capacity to supply heavy industrial needs. The use of inefficient plants has been reflected in a very sharp increase in fuel costs—41 per cent for the month of December as compared with the same month of 1945 (compared with 10 per cent increase in kilowatt-hour sales). Of course some of the increase represented higher coal prices, but use of inefficient generators was doubtless also a factor.

WHILE it is probably true, as Mr. Hyde points out, that the new plants to be installed over the next two or three years will be needed in large part to store needed reserve capacity, nevertheless these new plants should generate electricity with much less fuel expenditure than some of the stand-by plants pressed into operation under present conditions. Thus there should be some operating savings. Moreover, it is generally thought that, barring a major depression, the sales curve will continue to rise as new homes, apartment houses, and office buildings are constructed. The utilities may therefore have to wait a while before they can "catch up" as Mr. Hyde seems to assume they will do.

There is another angle, of course—the character of the financing program necessary to pay for the new construction. Construction costs are now very heavy compared with prewar figures. This will help to "fatten" the rate base and thus help to sustain earnings on the basis of "fair return on investment." But the new capital will have to pay its way and the exact character of the financing and the amount of "new money" needed as a contribution to construction requirements may have a considerable bearing on common stock earnings. At the present time the utilities are employing a great variety of methods to raise new capital, such as bank loans, increased bonds and preferred stocks, convertible issues, common stock rights, and sale of new common stock to the public. In general the companies with big liquid funds or a broad equity base have an advantage over others, as Mr. Hyde points out. Sale of new common stock to the public is the least advantageous way of financing so far as the common stockholder is concerned—except as it may improve the investment caliber of the stock somewhat. Obviously, a serial bank loan is the most advantageous method (though perhaps not the safest) because of low current interest rates.



Federal Power Commission

What Others Think

"Vanishing Rate Base" Is No Idle Dream

AN article which claims a specific threat to the continuation of the natural gas industry as private enterprise appeared in the February issue of *Gas Magazine*. The author is Samuel H. Crosby, counsel, E. Holley Poe and Associates, and formerly himself a trial examiner for the Federal Power Commission.

Crosby points to what he regards as a menace to all business-managed, investor-owned utilities which lies under Federal Power Commission jurisdiction. Eventual nationalization of the natural gas business, through the actual workings of the "vanishing rate base," is the real villain of the piece.

That the investment which is thus menaced is a substantial one is made clear by Mr. Crosby in introducing the subject:

> A commission press release shows capital invested in plant by natural gas companies at October 1, 1946, to be $1,878,686,997, with book reserves for depreciation and amortization totaling $689,590,316. The commission considers these reserves as capital returned to the owners of the business and their "net investment" shrinks accordingly from year to year. This "vanishing rate base" yields diminishing returns to the owner as his "net investment" is progressively reduced.
> . . . there is good reason to expect fulfillment of the commission's purpose, expressed recently to congressional Appropriations committees, assuming the form of a general rate reduction campaign. The pattern for ultimate control of natural gas rates is set by the commission in its order to Chicago District Electric Generating Corporation, dated July 16, 1941,[1] providing for *automatic semiannual rate revisions*. For refreshment of short memories we quote:
>
> > Respondent . . . shall . . . revise its rates and charges . . . (to) provide a net operating income . . . equal to a 5½ per cent return on the (net investment) rate base . . . *and semiannually thereafter for the cost of additions . . . and for* change in depreciation reserve. (Italics supplied.)

To place the seriousness of this situation before the reader, the statement made by R. H. Hargrove (vice president and general manager, United Gas Pipe Line Company, and recently elected president of the American Gas Association), near the close of the FPC's natural gas investigation, is quoted as a concise summary of "this vital economic problem which seems too little understood." That statement, Mr. Crosby declared, clearly shows that the "commission's administrative policies, upheld by friendly courts, may lead directly and quickly to involuntary liquidation of stockholders' equities and confiscation." He added that every person having interest or responsibility in public utilities should be warned by these words of Mr. Hargrove:

> In the establishment of the rate base the question of whether the accrued depreciation should be deducted is also of paramount importance. If the deduction is proper, to fail to recognize this fact would be to unduly penalize the consumers. On the other hand, if the deduction is improper, to insist upon its being deducted results in confiscation.
>
> In the light of the importance of this problem and the attention that has been given to it, it is difficult to understand the confusion that exists. Perhaps the confusion exists because the manner in which the rate base and the accrued depreciation are determined controls the propriety of the deduction. Certainly if the rate base is established as the reproduction cost new and the accrued depreciation is established by observation, then the accrued depreciation should be deducted.
>
> With equal certainty, if the rate base is established as original cost, or adjusted original cost, and the accrued depreciation established by the service-life method, then the accrued depreciation should not be deducted. The important point to be remembered is that under this service-life method the depreciation is accrued not for the purpose of

[1] *Re* Chicago District Electric Generating Corp. IT-5500, 2 FPC 412, 430.

returning invested capital to stockholders, but for the purpose of establishing a fund to maintain the physical integrity of the property so that it may continue to render adequate service to the consumers without interruption. Accumulated depreciation funds may not be disbursed to the stockholders but are trust funds for specific purposes. To make the deduction under this latter condition is to confiscate the property of the company, day by day, and bit by bit, for the use of the consumer. I would like to add that I am familiar with the commission's practice, in some instances at least, of approving this deduction, and I appreciate the gravity of my statement. The seriousness of the situation compels me to make the statement.

To prove my point I submit that in a static property whose plant account is unchanging, the ultimate result will be to extinguish the rate base (except for working capital and other minor items), thereby completing the transfer of the property from the company to the consumers. Legal title would, of course, remain in the company, but a sort of trusteeship would prevail. Can it be successfully argued that such was the result intended by Congress in the enactment of the Natural Gas Act? I do not think so.

The practice in this respect that the commission has heretofore approved is far too serious in its immediate results and in its implications to permit it to become a fixed policy. It should be forthwith reviewed with care and thoughtful consideration, and I believe that this commission will do so.

As to a willingness of FPC to review and revise its depreciation policies, the author is not hopeful. Master strategies, he states, have been planned and successfully guided through the courts, and the commission is firmly entrenched, with its policies and powers very fully defined. Mr. Crosby continues:

> . . . The fact that they have not been so far fully exercised is due in part to exigencies of war and doubtless in part to a prudent discretion. In the process of establishing the boundaries of its regulatory domain stakes have been driven one at a time and organized industry resistance thus avoided. Having successfully progressed with moderation, the foundation for industry-wide orders has been well laid. For illustration, an order of general application might be issued requiring periodic, automatic rate revisions as in the case of the Chicago District Electric Generating Corporation.

Further, with reference to the problem posed by Mr. Hargrove, Mr. Crosby states that there is current and conclusive evidence of the commission's basic purposes in its 80-page opinion adopted October 25, 1946, in the second Safe Harbor Water Power Corporation Case, in which the commission asserts:

> There is no principle or concept of regulation, either in law or in fact, requiring consumers to pay in perpetuity a return on the total capital initially embarked in the enterprise *when such capital is periodically returned through depreciation charges* and in the absence of reinvestment of such capital in the utility's operative property. *Such return of capital terminates the consumers' obligation.* (Italics supplied.)

Crosby notes that a proceeding against Safe Harbor was brought prior to 1940, and, on grounds not relevant to this discussion, appeal was successfully taken from orders then entered. In the second case, the commission requires the company to adopt straight-line depreciation charges. The trial examiner's report, it appears, was filed more than a year ago, and the comment is made that, although the personnel of the commission has undergone change, the new members are completely in line with past policies, now more fully discussed and revealed. The following statement of the commission, Mr. Crosby observes, should resolve any doubts:

> Since this commission's previous decision, much study has been given to the depreciation question and, in addition, we have had the benefit of the comprehensive reports of the committee on depreciation of the National Association of Railroad and Utilities Commissioners, which were made after diligent inquiry and support the straight-line method. In all of this commission's rate cases, except the earlier case involving Safe Harbor and the interim order (but not the final order) in the *Natural Gas Pipeline Company of America* proceeding, it has *required the straight-line method to be used, and on review its orders have been affirmed.* (Italics supplied.)

As an outstanding contribution to the current consideration of the depreciation problem, attention is called by Mr. Crosby to a recent article by Dr. Henry Earle Riggs, professor emeritus and former dean of the School of Engineering at the University of Michigan. The author comments:

In a series of three brief papers published in PUBLIC UTILITIES FORTNIGHTLY[2] Dr. Riggs reviews the historical milestones of utility regulation with sage analysis of the "new chapter in the regulation of utility rates," spearheaded by the Federal Power Commission, ratified and firmly established by the Supreme Court. Dr. Riggs presents relevant facts and figures fully substantiating the views expressed by Mr. Hargrove and concludes that the American people squarely face the question, "Are we ready for government ownership?"—of the telephone, electric, and gas industries.

The comment is then made that in the early years of its existence the FPC exercised relatively limited powers, but when the Natural Gas Act was passed it was delegated legislative authority in the broadest terms, without appropriate statutory prohibitions or basic standards for guidance. As a result, the commission possessed virtually unlimited rule-making power which has fostered its bold approach to fundamental economic problems of government.

It is possible that in the genesis of its concepts the commission, Mr. Crosby remarks, may have found a guiding influence derived from the Water Power Act of 1920. The enactment of this law resulted from years of determined effort led by conservationists. Reviewing a bit of its history, he says:

> . . . These men, including Gifford Pinchot, were long-range planners, interested in establishing orderly procedure to convert the power of falling water to electricity. Their thesis and purpose were to bring about controlled and licensed initial development of hydroelectric potentials on navigable streams by private enterprise, but with an option in government to recapture licensed hydro projects after fifty years. Private enterprise might enjoy the profits during that time with the provision that the pioneer should receive a fair return on his "net investment," any surplus above a fair return to be applied on retirement of the original investment. At the end of the 50-year period, if government sees fit to exercise its option to recapture, whatever part of the investment has not been recouped by the pioneer from earnings above a fair return the government will pay.
>
> When this law was passed hydroelectric development had barely commenced. All conditions governing hydro projects were expressly stated in the law and the applicant for a license to build a dam made a written contract with the government accepting those conditions. Thus, hydro pioneers knew what they were in for before they started.

Now, as to the Natural Gas Act, it is of importance to note that FPC is administering it as if it included the "net investment" and capital retirement provisions written clearly into the Water Power Act. And, to emphasize the danger to owners of natural gas properties in such a policy, Mr. Crosby comments that as Mr. Hargrove has so clearly stated

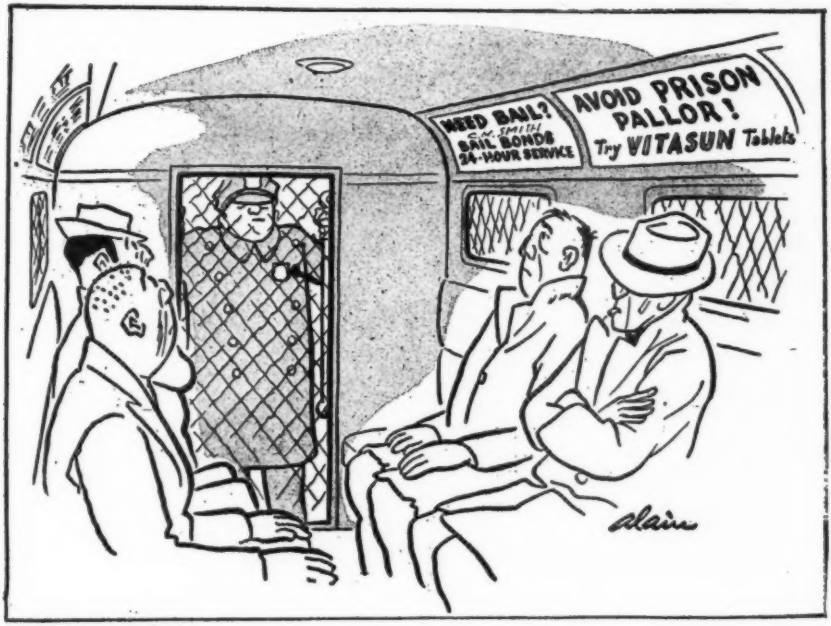
> . . . the depreciation policies of the commission unless revised must inevitably "extinguish the rate base . . . thereby completing the transfer of the property from the company to the consumers. Legal title would, of course, remain in the company but a sort of trusteeship would prevail"—and it may be added that when this has been accomplished the nominal owners, still holding legal title, are specifically forbidden by the act itself to abandon service unless permitted by the commission when the "available supply of natural gas is depleted to the extent that the continuance of service is unwarranted."

The author refers to two factors which particularly contributed to the easy encouragement of depreciation charges by the companies on so high a scale that the accumulated book reserves now aggregate approximately one-third of total natural gas plant investment. The interstate pipe-line business in 1926 was full of risk. As a consequence, managements used wisdom and generally planned recovery of investment within twenty years, setting up book reserves on that basis. Also, the business was looked upon from the beginning as a "wasting-asset industry," in which the commodity dealt in would be exhausted long before the pipe lines and compressors would be worn out.

As an illustration of this conception, Mr. Crosby mentions that

> It will be recalled that the Natural Gas Pipeline Company originally assumed that its reserves would be exhausted by 1954, and it was in that company's rate case that Mr. Chief Justice Stone, speaking for the court, held that

[2] See article, "The Depreciation Problem," by Henry Earle Riggs. PUBLIC UTILITIES FORTNIGHTLY, Vol. XXXVIII, Nos. 6, 7, 9. Pages 333, 410, 528.



Courtesy, The New Yorker

TRANSPORTATION ADS SELL MORE

. . . the purpose of the amortization allowance and its justification is that it is a means of restoring from current earnings the amount of service capacity of the business consumed in each year. Lindheimer *v.* Illinois Tel. Co. 292 US 151, 167. When the property is devoted to a business which can exist for only a limited term, any scheme of amortization which will restore the capital investment at the end of the term involves no deprivation of property . . . The Constitution does not require that the owner who embarks in a wasting-asset business of limited life shall receive at the end more than he has put into it.

It was in 1926 that the interstate pipeline business started in a big way. At that time, Mr. Crosby points out, the national wealth of our natural gas reserves was considered to be 23 trillion cubic feet and the known consumption that year was 5.71 per cent of that estimate. Now, twenty years later, he states, according to Dr. E. DeGolyer's testimony in the FPC gas investigation, that

. . . our known reserves are more than 144 trillion cubic feet. In 1944, as consumption figures of the Bureau of Mines show, the entire national consumption was only 3.42 per cent of the estimates of that year. It has long been obvious that first estimates of the useful lives of interstate pipe lines were too conservative and that so long as gas is produced in the Southwest the major lines conveying gas to established markets will be supplied through extensions to new production.

In the light of testimony from industry experts confirmed by Bureau of Mines experts appearing in the gas investigation, it is entirely reasonable to expect that, before the exhaustion of natural gas in various areas, manufactured gas from coal, produced in great volume at the coal beds, may profitably be transported through the same lines now used for natural gas, with the flow reversed to supply southwestern and intermediate points with a satisfactory pipe-line substitute of high quality at low cost.

It seems generally believed, Mr. Crosby observes, with reference to practical aspects of some of the "current problems of the too-much-regulated natural gas in-

dustry," that the oil industry and the natural gas industry may achieve a united purpose to evict the Federal Power Commission from its intrusions into the production field. As to this, he asserts:

> . . . Honeyed words of reassurance in official statements of the commission have fallen upon skeptical ears. There is no help in sight from the courts and the industries' sole hope lies in help from Congress. The oil industry is inextricably involved with the business of gas production and well aware of the fact. Various amendments to the Natural Gas Act of a comprehensive nature are under consideration and we may safely assume that at least several will be offered soon after the 80th Congress convenes, all definitely aimed at statutory restriction of commission authority.

He then calls to the reader's attention that public ownership of all important energy resources was persistently advocated by influential members of the New Deal administration. But, he observes that

> . . . this objective cannot be honorably achieved by devious means. If public ownership of the natural gas industry and expropriation of gas reserves are desired it is reasonable to expect the Congress to adopt equitable laws to that end, consistent with the basic rights of private property. If the 80th Congress does not favor public ownership of the natural gas industry it should amend the Natural Gas Act, so clearly defining depreciation policies as to free the industry from its existing jeopardies and uncertainties. Only the Congress can relieve this situation.

At the close of his article, Mr. Crosby says that a leaf may be profitably taken from the book of laws of the Province of Alberta, Canada. There the provincial statutes deal directly and explicitly with the depreciation problem of natural gas companies, which are public utilities subject to regulation by a provincial board. The relevant provisions of the law are set forth as follows:

> The board, either upon its own initiative or upon complaint in writing, shall have power by order in writing made, after notice to and hearing of the parties interested:
> . . . to require every proprietor of a public utility
> . . . to carry, whenever in the judgment of the board it may reasonably be required, for the protection of stockholders, bondholders, debenture holders, or creditors, a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the board may prescribe, and the board shall from time to time ascertain and determine, and by order in writing after hearing, fix proper and adequate rates of depreciation of the property of each proprietor of a public utility, in accordance with its regulations or classifications, *which rates shall be sufficient to provide the amounts required over and above the expense of maintenance to keep such property in a state of efficiency corresponding to the progress of the industry*, and each proprietor of a public utility shall make its depreciation accounts conform to the rates so ascertained, determined, and fixed, and *shall set aside the moneys so provided for out of earnings and carry the same in a depreciation fund, and the income from investments of moneys in such fund shall likewise be carried in such fund, and this fund shall not be expended otherwise than for depreciation, improvements, new constructions, extensions, or additions to the property of the proprietor of that public utility.* (Italics supplied.)

It is evident, as is pointed out by Mr. Crosby, that the purpose of the Alberta statute is to "assure and preserve sound financial structures in the natural gas industry, and the accumulation and safeguarding of resources and reserves for replacements and extensions necessary to efficient service." He then adds that

> . . . The act contains no indication of concern for the early retirement of invested capital. Under its requirement that a true sinking fund be employed, the annual charge to consumers for depreciation is materially less than comparable charges required by the Federal Power Commission under our Natural Gas Act. Under this statute involuntary liquidation of capital invested in a gas utility through the device of excessive depreciation charges is impossible.

That nationalization of the natural gas industry may already be on its way, if the policies of the Federal Power Commission remain in force, is Crosby's conclusion. It is clear that the people of this country have never asked to have this important free enterprise business nationalized. The warning words of Crosby and Hargrove are timely upon an economic problem facing business-managed, investor-owned utilities which needs to be better understood.

—R. S. C.

WHAT OTHERS THINK

More Public Power for Private Utility Distribution?

IN the *Congressional Record* of January 10, 1947, page A84, there was printed, as an extension of the remarks of Representative Homer D. Angell (Democrat, Oregon), an address by James H. Polhemus, president, Portland General Electric Company, before the annual meeting of the Inland Waterway Association in Portland on October 25, 1946.

The address dealt with various phases of the electric power situation in the Pacific Northwest, with especial reference to the distribution of energy generated at the hydro plants of the Bonneville Power Administration on the Columbia river. The views expressed by this utility executive, whose company is the largest distributor of Bonneville power, cast considerable light upon the question of how best to make widely available the power from Federal projects.

The following excerpts are taken from the address as printed in the *Congressional Record*. Stating that he firmly believed that the generation of power from the multipurpose Federal dams, inspired primarily as navigation and reclamation projects, in many respects transcends these latter two objectives in importance, Mr. Polhemus said:

> I should like to commence by quoting a recent statement of Dr. Paul J. Raver, administrator of the Bonneville project, one of your speakers today. It was one he made before congressional hearings while seeking additional appropriations for the Bonneville project. He said:
>
> "The Bonneville Power Administration as I see it today is a public utility. It has all of the obligations of a public utility status, and when a public utility enters on the responsibility of serving the people of a given area with an essential service it undertakes large responsibilities. One of them is to see that that service is adequate, from the time it starts, as long as that utility is in existence.
>
> "We are now in that position for the large part of the Northwest. The government, as I see it, is now in the position of having undertaken a responsibility of supplying the distributing agencies in the Northwest and therefore the people of the Northwest, through those distributing agencies, whether they are public or private, with an essential service, and we can't withdraw. We can't be too handicapped in the rendering of that service by appropriations."

DECLARING that he agreed unqualifiedly with the administrator's statement, Mr. Polhemus added to it this comment of his own:

> It appears to me that the obligation and the responsibility referred to by Dr. Raver—to serve the people of the Northwest with an adequate supply of federally generated electric power on a continuing and expanding basis—is one which does not end with generation alone. The construction of an economically feasible and soundly engineered transmission network to carry the power to those distribution load centers where demand exists, and the provisions of adequate interconnection facilities with the distributing systems which achieve final delivery to the homes, farms, and industries which consume the power is equally as important as the construction of dams and powerhouses. We can't use the one without the other.

At the close of his address, Mr. Polhemus outlined the position of Portland General Electric and other business-managed utility companies relative to the distribution of Bonneville power, in these words:

> It should be clear in everyone's mind that the decision of Portland General Electric Company, and some other distributing agencies as well, not to proceed with the expansion of their own generation facilities was motivated by a sincere desire to coöperate in the program for Columbia river development in a way that would best serve the public interest.
>
> When the Bonneville was completed, a large power surplus was immediately created. It was waiting to be used. Its advantage of low cost could not benefit anyone unless it was used.
>
> We believed then, and we believe now, that it was our duty to the people we serve to bring them the benefits of such Federal projects as Bonneville just as rapidly as it was in our power to do so, and up to the full limit of the region to absorb any surplus. Obviously such an objective cannot be served by refusing to distribute the low-cost energy from Federal projects. Not only would it

have been unpatriotic to our region, but economically unsound, to build additional generating plants to compete with Federal projects. We were Bonneville's first customer, and have always been its largest distributor. Bonneville and Coulee power now supplies more than two-thirds of the kilowatt hours used by our customers and, as this amount has grown, repeated rate reductions have been made.

The result has been that our present rate structure is built upon the continuing availability of federally generated power in amounts adequate to meet not only the present but the future demands of our people. If these needs are not fulfilled, it is these people who will be hurt.

These views, expressed last fall by a private utility president, whose company is one of a group of public and private power interests in the Pacific Northwest which issued a "statement of policy" recently (see PUBLIC UTILITIES FORTNIGHTLY, Vol. XXXIX, No. 6, page 369, March 13, 1947), serve to add emphasis to the importance of a practical approach to this question. With such a policy in effect, the uneconomic duplication of facilities and the needless expenditure of taxpayers' money would be avoided, and "low-cost power" from Federal power plants would be available to all the people in an area.

Notes on Recent Publications

Did You Vote and Why Not? U. S. voters are indifferent—only 35,000,000 out of 91,600,000 residents twenty-one years old and over, voted in the November, '46 elections. Reasons are: low standards of political campaigns, and lack of school education to fit students to take their place as citizens. This country's "greatest resource—the brains of our people," says the author, is ignored by the politicians who always fail to appraise properly the intelligence of the public. THEY WANT TO BE GOOD CITIZENS. By George H. Gallup. *National Municipal Review.* January, 1947.

Edison, the Empiricist. Although Edison took theorists on his staff, he had small regard for them; his invention of "impossible" devices had frequently proved them wrong. His social thinking, says the author, "was of the dollars-and-cents kind . . . an invention that could not be sold was to him a commercial and therefore a social failure." The desire to develop a market for his incandescent lamp led him to organize and operate the first electric utility company — a great achievement. The vast social changes which resulted from his inventions were utterly disregarded by Edison. SCIENTIST-MAGICIAN WHO RESHAPED A WORLD. By Waldemar Kaempffert. *New York Times Magazine.* February 9, 1947.

Progress Backwards! Gradually wire recorders are coming on the market. Prices range from $97.50 to $400; the latter for a device for office dictation. In the offing is a multiple reproduction system to pour out commercials through vending machines and in stores. Advance publicity promises that customers will be bombarded by a barrage of commercials—a pleasant prospect! WIRE RECORDERS. *Tide.* January, 1947.

Plant Town Advertising. Increased attention is being given to industry's relations to the community. An executive of the Bristol-Meyers Company tells of the programs of two subsidiaries, through newspaper advertising to make their policies clear to the communities where new plants were to be opened. INDUSTRY TALKS TO ITS PEOPLE. By George S. McMillan. *Editor & Publisher.* February 1, 1947.

The Light Metal Age. Aluminum production is now 600,000 tons annually, contrasted with prewar output of 160,000 tons. This light metal is now cheaper and stronger, and is finding new uses. Galvanizing and tinplating of steel may be replaced by aluminum coating. For the construction of railroad rolling stock, automobiles, and airplanes, aluminum is being found increasingly useful because of its lightness, strength, and low cost. ALUMINUM ADVANCES ON ALL FRONTS. By Fred P. Peters. *Scientific American.* February, 1947.

We Still Have Most of It? With almost one-half of the world's reserves of coal, and one-third of the iron ore, the United States store of these two minerals equals the combined indicated resources of the British Empire and the Soviet Union. This country also has one-third of the zinc, lead, and petroleum, and 22 per cent of the copper. Looking toward atomic energy developments, it is still a question as to what may be the U. S. share of world resources of radio-active minerals. U. S. STILL LEADS WORLD IN MINERAL RESOURCES. By Joseph V. Sherman. *Barron's.* January 13, 1947.

The March of Events

In General

U. S. Power Projects Assailed

FRANK MCLAUGHLIN, president of Puget Sound Power & Light Company, told the annual meeting on March 24th that competition from public power projects had forced electric rates in his company's area down "too low," reducing earning capacity and making it difficult for the company to maintain a sound capital structure.

The company's annual report, issued simultaneously, pointed out that the Bonneville Power Administration recently had applied for three new rates, for railroad electrification, irrigation, and surplus power, and that Puget Sound Power & Light had petitioned the Federal Power Commission for a rehearing on the grounds that the proposed rates were discriminatory.

Mr. McLaughlin said the company would continue to urge the adoption of state and national legislation to eliminate public power, but that a realistic appraisal of Puget's position would lead to the conclusion that the stockholders' interest would be best served by sale of the properties to public power agencies at a fair price.

Bill to Curb U. S. in Hydroelectric Field Introduced

SENATOR Elmer Thomas, Democrat of Oklahoma, on March 21st introduced a bill which would prohibit the government from constructing or acquiring future hydroelectric plants "which have the generation of electric power and energy as their primary purposes."

The measure would set up a new policy under which the Federal Power Commission would supervise the production, sale, and distribution of electricity generated at federally owned hydroelectric plants, except the Tennessee Valley Authority.

Excess power produced at existing plants or at those built in connection with flood-control projects would be sold by the FPC, with rural electrification coöperatives getting first call. Any revenues derived would be turned over to the Federal Treasury.

Approves Columbia River Basin Development

SECRETARY of the Interior J. A. Krug last month announced approval of a report on a departmental plan, sponsored by the Bureau of Reclamation, for comprehensive development of the Columbia river basin in the Pacific Northwest. Embracing 238 projects, the plan charts developments for many decades. Eleven projects are singled out for authorization now to meet the earlier needs of the region.

The Federal organizations which contributed in formulation of the report included the Corps of Engineers, the Federal Power Commission, various units of the Department of Agriculture, and agencies of the Department of the Interior, principally the Bonneville Power Administration, Geological Survey, Fish and Wildlife Service, National Park Service, Bureau of Mines, Office of Indian Affairs, and Bureau of Land Management.

If authorized by the Congress, the plan ultimately will benefit 5,360,000 acres of land, Secretary Krug explained. This will double the area now under irrigation in

the basin, and provide supplemental water to other land. Hydroelectric power capacity in the basin upon completion of the plan would be increased fivefold through new installations with capacity of 10,500,000 kilowatts. Truly multiple in purpose, the plan entails essential provisions for flood control, navigation improvements, fish and wild life conservation, silt control, and pollution abatement.

Total construction costs for the whole plan, based on 1946 price levels, which the Secretary pointed out are higher than those to be anticipated over the long period required for full development, are estimated at $5,600,000,000. About 84 per cent of this construction cost would be returned to the Federal Treasury through repayments by water users and from power revenues. The latter source would contribute about 92 per cent of the reimbursable costs of the over-all development.

The nonreimbursable portion of the Federal investment would be allocated to navigation, flood control, pollution abatement, recreation, and wild-life benefits.

The return to the Treasury of the costs chargeable to power, irrigation, and potable water would be assured by a financial pooling arrangement which treats the basin as a unit, Mr. Krug said.

House Organ Contest

EDITORS of all company magazines and newspapers published in the United States and Canada are invited to participate in the Second Annual Publications Contest sponsored by the International Council of Industrial Editors. This year's contest is being conducted by the Wisconsin Regional Association of the council, and is under the direction of Joseph A. Dragotto, editor of the Solar Corporation company magazine. Editors are urged to write immediately to Mr. Dragotto, PO Box 404, Milwaukee, Wisconsin, for official entry blanks and detailed contest information. Deadline for entries is April 25, 1947, and all entries must be postmarked not later than midnight of that date.

Judges for the 1947 awards will be Courtland Conlee, promotional manager, *Milwaukee Journal;* Professor Earl Huth, Marquette University School of Journalism; and George Reise, director of personnel and industrial relations, Milprint, Inc., and past president of the International Personnel Directors Association. These judges will consider the following points in scoring each entry: (1) accomplishment of purpose; (2) editorial achievement; (3) appearance achievement; (4) production achievement.

Arkansas

Transport Rate Raise Asked

THE problem of making Capital Transportation Company "a paying proposition," so that stockholders may earn a fair 6 or 7 per cent interest on their investment, was placed in the lap of the Little Rock city council by Arkansas Power & Light Company President C. Hamilton Moses last month.

Appearing before the city council, meeting as a committee of the whole, Mr. Moses said that the company, now a separate corporation from Arkansas Power & Light Company, has not been making money.

Faced with the problem of borrowing $1,450,000 needed for the company's change from the streetcar to the trackless trolley and bus system, stockholders are forced to seek added revenue from patrons to insure a fair return, he said.

Mr. Moses suggested several different increases, possibly a straight 7-cent fare, 8 cents, or a 10-cent fare with three tokens for 20 cents, but made no specific request.

Transportation is a hazardous investment, Mr. Moses said in a recital of company losses which he said dated back to 1927.

District of Columbia

Charges Statistics Juggled

THE Washington Industrial Union Council (CIO) last month accused the Capital Transit Company of "figure juggling" in its efforts to obtain permission to increase fares from the District of Columbia Public Utilities Commission.

In a statement, the council charged the proposed fare increases would cost the riding public more than $4,000,000 a year and raise the company's rate base return to 12.8 per cent. A decrease in fares would be asked when the council is permitted to testify, it was said.

The statement followed completion of transit company testimony before a PUC hearing. The company seeks to raise the weekly pass price from $1.25 to $1.50 and to charge a 10-cent cash fare after eliminating tokens now sold three for a quarter.

Company officials have estimated the fare boost would produce an operating income of $1,483,382 in 1947. Computed on a rate base of about $30,000,000 determined by the PUC, this would produce a return of approximately 4.8 per cent, it was brought out. Almost the same return was realized in 1946.

Florida

Legislators Back Power Measure

PINELLAS legislators last month informed directors of the Florida Power Corporation that unless a statewide utility regulatory bill is passed at the coming session they will make every effort to create a county utility board. The directors appeared at a special meeting in St. Petersburg to argue for statewide regulation instead of the local board plan.

R. J. McCutcheon, Jr., of St. Petersburg, a director and principal spokesman for the company, pointed to its record as "a good citizen" and said stockholders were perfectly willing to accept regulation by "a fair state board."

"What we object to most is the idea of a different board and different set of rules for each of the 27 counties the company services," Mr. McCutcheon said.

Senator Henry S. Baynard and Representative Archie Clement declared that in their opinion the state's big power companies had given only lukewarm support to statewide regulatory bills in the past. The legislators emphasized that they had no intention of setting up a board which would be unfair to the company.

Illinois

FEPC Backer Outshouted

GILBERT GREEN, Communist party state chairman, last month told the state house judiciary committee that the state should pass a fair employment practices bill but should strengthen it with "more penalties" than are in four measures now pending. FEPC legislation is designed to bar discrimination because of race, creed, color, or national origin or ancestry from employment practices.

Green made an unscheduled appearance before the committee, which heard seventy-five witnesses speak in favor of FEPC legislation. Representative Jenkins, Republican of Chicago, a sponsor of one FEPC measure, who conducted the hearing, apologized for Green's appearance and said he was put on at the last minute at the insistence of Representative Skyles, Democrat of Chicago, one of the cosponsors of the bill.

Green refused to yield the floor after

the one-minute period allotted each witness. He was informed twice that his time was up, but he kept talking. Finally Representative Horsley, Republican of Springfield, at a disadvantage because Green had a microphone and he did not, succeeded in outshouting the witness on a point of order.

Indiana

Mixed Gas Plan Studied

THE Indianapolis city council voted recently to investigate a proposal of the Citizens Gas & Coke Utility to combine natural and artificial gas for Indianapolis users.

John A. Schumacher, council president, asked for such an investigation. Asserting he was glad to see consideration being given to bringing natural gas to Indianapolis, he said it appeared that a gas mixture may be impractical because of the difference in price of natural and coke gas.

"The proposed 20-year contract binds the citizens for a long time," Mr. Schumacher said. "It may be good or it may be bad for the city. We should be certain before permitting the city to be committed for a 20-year period."

The council then appointed Mr. Schumacher and Herman E. Bowers, chairman of the council's utility committee, to confer with the gas utility's management on the feasibility of such a contract. Mr. Schumacher named Arch N. Bobbitt, city corporation counsel, as a third member of the committee.

The state public service commission, to help prevent increased shortage of natural gas for industrial use, last month banned further new sale of natural gas for "space heating" until further notice. The order does not apply to manufactured gas, which already has been virtually cut off from would-be new users in the Indianapolis area by inability of the Citizens Gas & Coke Utility to fill new orders.

The commission previously had put temporary restriction on supplying natural gas for space heating in new construction.

Governor Signs Bill

THE governor last month signed a bill (SB 228) which provides that the state public service commission shall value all property of any public utility actually used and useful for the convenience of the public at its fair value instead of current and cash values.

Any single municipality or any ten consumers of any utility affected by a rate order may appeal to the county circuit court within thirty days.

Kansas

Gas Price Uproar

IN the midst of a senate committee hearing last month on a bill giving the state authority to fix the price of gas in the huge Hugoton field, the Panhandle Eastern Pipe Line Company announced a price increase to the royalty holders from the present 4 cents to 5 cents a thousand cubic feet, retroactive to March 1st.

At issue was a proposal extending the powers of the state corporation commission, not only to regulate production to conserve a natural resource, but also to fix the minimum price of gas. It would be the commission's first entry into the price-fixing field.

The bill, introduced by house members, and which slid through the house without discussion, was inspired by low prices paid landowners in the area, compared with higher prices for gas in neighboring Oklahoma.

Representatives of pipe-line companies

agreed generally that a higher price should be paid, but argued that the competitive situation would bring it about normally. Russell Voertman, representing Panhandle, announced the price increase.

Gas Rates Cut

CUSTOMERS of the Gas Service Company, Kansas City, will save an estimated $2,100,000 annually through reduction in the gate rate for natural gas purchased at wholesale from Cities Service Gas Company.

The new rate schedules were to be filed with the Federal Power Commission, to take effect June 1st.

The reduction will supplement the $375,000 annual rate cut which went into effect last March 1st.

Kentucky

Bus Workers Get Increase

ARBITRATORS of the dispute between the Paducah Bus Company and its union employees approved a wage increase of 10 cents an hour last month for all company employees.

A union request to make the increase retroactive to May 1, 1945, was denied. The union had asked for a blanket wage increase of 30 cents an hour and more liberal vacation privileges.

The arbitration board approved the union's request for a 2-week paid vacation after one year of service, but a request for 3-week leave after five years' service was turned down.

A company proposal to eliminate the contract provision requiring new employees to join the union was defeated and the union right to discipline its members was upheld by the arbitration board.

A union attempt to discard the no-strike provision of the contract was unsuccessful. A company move to shorten the present 48-hour work week to a minimum of forty hours was defeated.

Louisiana

State Gas Policy Ended

GOVERNOR Davis announced on March 21st that, in accordance with the mandate of the state legislature, he would abolish the office of natural gas conservation immediately.

The legislature, meeting in special session, had previously approved resolutions which repealed a five-year-old policy statement which opposed export of Louisiana's gas to other states for "inferior" purposes.

At the same time the house and senate recommended that the office of natural gas conservation, established as a part of the governor's executive staff, be abolished.

Maryland

Jim Crow Repealer Killed

WITH the speaker of the house failing to recognize its supporters, the Jim Crow repealer was killed in the house of delegates last month with the use of the deadly "clincher." The bill had previously passed the senate.

Democrats and Republicans alike clamored for a roll call, but their action was unheeded by Speaker C. Ferdinand Sybert, Democrat of Howard, as he declared the bill killed after a voice vote. Four Democrats from the Baltimore fourth district joined with the Republican minority in charging that the

"speaker railroaded the measure to defeat."

The bill was reported out unfavorably by the house judiciary committee.

Delegate E. Peter Richardson, Democrat of Worcester, applied the "clincher," which consists of a motion to reconsider the vote on a bill and then to table the motion to reconsider. Adoption of the clincher precludes any more discussion of the measure to which it is applied during the current legislative session.

Massachusetts

Labor "Magna Carta" Released

GOVERNOR Bradford recently submitted to the state legislature the 43-page report of the Slichter committee, calling for changes in the Barnes law, machinery to prevent strikes that endanger public health and safety, and a new conciliation service free of politics to be regulated by a joint labor-management advisory committee.

The document, which the governor described as a "modern Magna Carta for labor and industry," charts a course midway between the extremes of excessive labor restrictions and no restrictions at all. It is designed to bring greater industrial peace to Massachusetts, which already has the second best strike record in the nation.

The Slichter report, prepared by a 9-man committee representing labor, management, and the public, also contains (1) a recommendation that forms of the closed shop not be banned in Massachusetts if subject to certain specified limitations; (2) a set of proposals to minimize jurisdictional disputes; (3) a set of proposals for minor amendments to the state labor relations act; (4) a 9½-page discussion on what employers and unions can do to make collective bargaining more effective.

In the proposals for a new conciliation service, the Slichter report urged that labor and management in Massachusetts be given "the opportunity to develop the kind of conciliation service and the kind of arbitration service which meet their needs."

The conciliation service would operate as an independent agency within the department of labor and industries under the control of an 8-man labor-management advisory committee.

Minnesota

Committee Votes Natural Gas Tax

THE house tax committee, by a vote of 15 to 9, last month approved a state tax on natural gas. Original proposal to levy a tax of 7 cents a thousand cubic feet was amended on motion of Representative Thomas O'Malley of Duluth to make the assessment 3 cents.

The proposal has been opposed strenuously by legislators from areas using natural gas. Their contention has been that the tax ultimately will be passed on to the user.

Representative Frederick E. Memmer of St. Paul, who opposed the proposal, walked out of the tax committee meeting and made the statement that "when a tax committee of this house ceases to devote its energies to taxes and turns its attention to the destruction of a business, then I feel there is no point in taking part in its deliberations."

The bill calls for the state general revenue fund to get one-third of the tax, the state school fund one-third, and the municipalities using the product one-third.

The measure was to be sent to the floor of the house where it would go on general orders.

Missouri

Antistrike Bill Opposed

REPRESENTATIVES of public utility unions strongly protested a measure to prevent work stoppages in Missouri public utilities by compulsory means at a hearing before a house committee last month.

The bill, introduced by Representatives Murray E. Thompson of Webster county, speaker of the house, and R. J. King, Jr., of Franklin county, seeks to avoid work stoppages in public utilities by mediation and state seizure of plants should arbitration fail.

John J. Rollings, representative of the AFL Central Trade and Labor unions, opposed the measure because of the compulsion clause. He pointed out that the government cannot set standards in wages and salaries by compulsory means unless they can also set the scale in the standard cost of living.

The committee deferred action on the bill.

Nebraska

Power District Tax Bill Defeated

A BILL to tax public power districts on a regular *ad valorem* property assessment basis was defeated by the state legislature last month on objections that it would be unconstitutional.

Backing his bill to assess public power districts, Senator Henry Kosman pointed out to the revenue committee recently that some districts are planning to expand and they should be made to pay upon their improvements the same as private business. He pointed out they now make payments in lieu of taxes which are based upon the amount of taxes paid by the private companies they purchased.

Gerald Collins of Omaha, member of the board of directors of the Omaha Public Power District, said such a bill would be unconstitutional. The Omaha District, he said, is paying about $950,000 in lieu of taxes now and had sold its bonds on that basis.

Paul Boslaugh, Hastings, attorney for the Central Nebraska Public Power District, expressed similar views. He said the courts have held the public power districts are not subject to taxes but should it reverse this decision it would only mean the increase which might result would be passed on to the consumer.

Washington

Striking City Employees to Lose Jobs

ANY city employee who answers a strike call and fails to report for his work will be considered to have resigned, the Seattle city council ruled unanimously last month in a formal resolution.

The council's statement of its position was in reply to a recent announcement of the Joint Council of Municipal Employees (AFL) that a strike ballot would be taken soon among city workers, because of wage dissatisfaction.

Under the city charter, and civil service regulations, the city would fill, by other appointments, vacancies created by strikers absenting themselves from duty.

An ordinance was introduced authorizing expenditure of $10,000 by the civil service department for a comprehensive survey of municipal wages in comparison with those in comparable cities and in private employment. Data and recommendations of the survey will be used by the council in preparing the annual salary ordinance to be included in the 1948 municipal budget.

The Latest Utility Rulings

"Grandfather" Rights Not a Bar to New Gas Company

THE public need for additional service, according to the Federal Power Commission, outweighs protests against invasion of the territory of a company holding so-called "grandfather" rights under the Natural Gas Act. The commission is of the opinion that it has statutory authority to grant a certificate, upon a proper showing, to a company which will become a natural gas company under the act for service of an area already being served by another company under the authority of either "grandfather" or "nongrandfather" certificates of public convenience and necessity.

This ruling was announced in an opinion which followed the commission order authorizing the Michigan-Wisconsin Pipe Line Company to serve in the Detroit and surrounding Michigan areas. This company was also authorized to construct and operate, subject to certain conditions, the initial facilities of a natural gas transmission system extending from the Hugoton gas field in Texas to markets in Wisconsin, Iowa, Missouri, and Michigan.

Commissioners Draper and Olds dissented. They said that, although the majority had found that Panhandle Eastern Pipe Line Company had reasonably met its contractual obligations to serve in this area and was entitled to reasonable protection, the commission had not given it such protection. Commissioner Olds thought that Congress wanted to protect companies holding "grandfather" certificates so long as they lived up to their obligations.

The new company proposed a block type of rate structure for firm gas sales. Rates would vary according to size of communities. It proposed to base block population of market areas on the official United States census reports. The use of storage fields would permit utilization of transmission pipe-line facilities in substantially a 100 per cent capacity or load factor, and it would not be necessary to fix a demand charge as is ordinarily contained in a so-called 2-part rate.

This form of rate would permit a full development of space-heating sales by the distributor without the penalty which normally is imposed on such sales in other types of rates because of seasonal variation in loads. The commission thought that further study should be given before approving the rates.

Coal, railroad, dock, and labor interests objected to the introduction of natural gas service into new communities in the state of Wisconsin. Their evidence was called somewhat speculative, concerned with broad questions of national policy, including the important problem of conservation and relative advantages and disadvantages of utilization from the viewpoint of public interest of the nation's fuel resources of coal, oil, and natural gas.

The commission referred to the statement by the Wisconsin commission in *Re* Wisconsin Southern Gas Co. (1945) 60 PUR(NS) 284 with respect to substitution of natural gas as it affects the public interest. That commission had said that introduction of natural gas would tend to the economic benefit of the public and would ultimately redound to the interest

not only of the railroads, but to the public generally, even though it might result in the sale, distribution, or handling of less coal or liquid fuels. *Re Michigan-Wisconsin Pipe Line Co. (Opinion No. 147, Docket No. G-669).*

Industrial Gas Sales by Interstate Company Regulated Locally

A STATE may regulate sales of gas direct from interstate pipe lines to industries, according to the Indiana Supreme Court. The only local sales of natural gas subject to the Natural Gas Act, says the court, are those for resale.

This opinion was expressed when the court upheld the right of the state commission to regulate local gas sales by the Panhandle Eastern Pipe Line Company. This company transports gas from Texas and Kansas across Indiana to Ohio and Michigan. At points along the line gas is diverted into branch or lateral lines, smaller in size and at lower pressure. It is delivered to distribution systems owned and operated by municipalities and public utility corporations, and in some cases directly to large industrial consumers.

The dangers of unregulated competition with local public utility companies were noted by the court. Customers of the pipe line might be given advantage over customers of local utilities. The situation produced might tend to break down the state system of regulation. This, it seemed to the court, was a weighty consideration in balancing national interest against local need.

Transmission of natural gas from one state to another is admittedly interstate commerce. The court did not, however, think it necessary to decide whether such direct sales were interstate or intrastate by mechanical standards. Even if they were interstate, they still might be subject to state regulation under some circumstances. If the Federal government has not elected to exercise its power under the commerce clause, and if the transaction is not of such a nature as to require uniform regulation on a national basis, and if it is so local in its nature and implications that local needs outweigh national interest, then, even though interstate according to mechanical tests, the state may intervene and regulate.

A suggestion had been made, although not vigorously urged, that this company was not a public utility in its service direct to large industrial consumers in Indiana. The court overruled this contention. The rights and duties of the company, it was said, must be determined in the light of its over-all character in the state. It was selling gas indirectly through distributing companies and that would make it a public utility under the Indiana statute. *Public Service Commission et al. v. Panhandle Eastern Pipe Line Co. 71 NE2d 117, upholding (Ind 1946) 63 PUR(NS) 309.*

Approval of Utility Borrowing Withheld Pending Establishment of Boundaries

THE New Jersey commission withheld approval of an electric utility's application for authority to borrow funds and to execute a mortgage note for $50,000 to finance the construction of new transmission and service lines in an area which another utility claimed the right to serve.

The commission felt that it should establish service boundaries before approving the financing of additional construction. The effect on the public of prolonged disputes between utilities played an important part in the determination. The commission stated:

> Uncertainties and resultant disputes as to service areas tend to delay establishment of service to prospective customers. The con-

tinuance of such a situation is not in the public interest, and the board accordingly finds under the circumstances here presented that conservation of the public interest requires the establishment of definite service area boundaries for the respective parties.

Re Tri-County Rural Electric Co., Inc.

Par Value Stock Reduced for Holding Company Simplification Purposes

THE American Gas & Power Company was permitted by the Securities and Exchange Commission to amend its previously approved plan of reorganization by reducing the par value of new common stock from $3 to $1 per share. The company proposed to use the capital surplus created by this reduction in part to create a reserve for additional write-downs in the plant account and a reserve for earnings in excess of an allowable return of 6½ per cent specified in the company's franchise.

It was shown that common stock equity would be 16.73 per cent of total capitalization at the end of 1946 and would reach 20.79 per cent on December 31, 1947. It would not attain 24 per cent until 1950, when it was expected to be 24.36 per cent.

The plan provided that the company's new charter would restrict common stock dividends to 50 per cent of earnings in any year in which the common stock equity was under 20 per cent of total capitalization, and to 75 per cent of earnings when common stock equity was between 20 per cent and 25 per cent. The changed capitalization would, therefore, reduce the amount of possible dividends for the first two years under plan. This temporary diminution in dividends would be offset by higher earnings and dividends in later years than was estimated under the previous plan.

It was noted that an expanded construction program, changing over to natural gas, would greatly increase earnings prospects, although it would keep down dividends at first. While some consideration must be given to dividend prospects, said the commission, determination whether, under a reorganization plan, each class of security holders was to receive the equitable equivalent of rights surrendered must be based principally on a comparison of present earnings prospects, absent the proposed plan, with prospective earnings under the plan.

A *pro forma* earnings statement for the eight years from 1946 to 1953 indicated a steady rise in net income. This did not, however, lead to the conclusion that debenture holders had too large a participation and that some adjustment should be made in favor of residual interests.

While the final effect of the changes which had taken place should be to increase slightly the participation by debenture holders, this would compensate them for the reduction in capitalization ratios which would be brought about under the proposed amendment and for the reduced dividends as forecast.

The commission, in noting that considerable time and argument have been devoted to the question of whether recent changes in general market conditions rendered the plan unfair, said:

> The debenture holders assert that security price changes which have taken place since our consideration of the plan early in 1946—the rise in general market prices to a high point in the summer and the sharp decline of prices in September and October—have adversely affected their participation under the plan.
>
> In effect, their argument is that the market price on the day of distribution of the securities allocated to them is the conclusive measure of their participation and that they are entitled to receive securities with a current market value equal to the face amount of their claim. With that we cannot agree.
>
> The primary measure of the debenture holders' participation is not the face amount of their claim or the market value of the securities allocated, but, as we have indicated, the prospective earnings of those securities as compared with the earnings they would have had absent the plan. If they are allocated securities of lesser quality than those surrendered, they must be compensated

through an increased share in the earnings above what they would have received had there been no reorganization. That has been done here, and the debenture holders are receiving a claim to prospective earnings substantially in excess of their present interest rates to compensate for their reduced position in the system and the relinquishment of their claim to accrued conditional interest. Though market prices of comparable securities may be considered in arriving at price-earnings ratios, even those figures are for comparison purposes only, and are not determinative.

A challenge to the legality of allocating common stock to the secured debenture holders was held to be without substance in view of rulings by the Supreme Court that it is not necessary that a security holder in reorganization be given the same class or type of securities which he had prior to the reorganization. It is enough that he receive the equitable equivalent of the rights surrendered and be compensated for any loss in position. Furthermore, the commission pointed out, allocation of common stock to preferred stockholders and to unsecured creditors has been approved in other § 11(e) plans. *Re Community Gas & Power Co. et al. (File Nos. 54-68, 59-55, Release No. 7131).*

Replacement of Major Items Distinguished From Maintenance

As part of its claim for higher rates than those established by the Federal Power Commission in Mondakota Gas Co. *v.* Montana-Dakota Utilities Co. (1946) 64 PUR(NS) 11, the latter company contended that the cost of service would be increased because of what it characterized as deferred maintenance. Estimated expenditures would be for removal and replacement of major items of property on the pipe-line system.

This, the commission said, was not one of maintenance involving expense usually incurred annually and made up of cash outlay properly chargeable to operating expenses but was a pipe-line rehabilitation program involving replacement of units of property. The commission continued:

> Such costs are capital replacements and not maintenance expense chargeable to operating expenses. Charges for like work in the past, as shown by the testimony of respondent's chief engineer, have been properly charged to investment as provided by the commission's Uniform System of Accounts and we find that there is no warrant for the allowance which respondent claims as deferred maintenance.

Other claims for higher costs were similarly rejected. One claim was for amortization of a portion of a transmission system which the company asserted would not be recovered through depreciation. The amount, said the commission, was not allowable for the reason that accrued depreciation already recorded by the company on its books, plus future annual depreciation allowance, would be adequate to return all of the company's cost of utility plant. *Mondakota Gas Co. v. Montana-Dakota Utilities Co. (Opinion No. 148, Docket Nos.G-220, G-402).*

Foreign Air Carrier Permit Approved

The Civil Aeronautics Board approved the application of an air transport company of Salvador for authority to operate between Central America and the United States. The board pointed out that both Salvador and the United States had signed the Air Transport Agreement and that reciprocity and anticipated future development of air traffic from the United States to Central America would require approval of the application.

Commissioner Young disagreed with the majority of the board. He observed that a Panamanian holding company owned almost all the stock in the air line

and that Panama had not signed the agreement. The basis for his dissent is apparent in this statement:

> Thus the finding of the majority means that from the purely practical point of view a national of a third country is actually the beneficiary of the permit award, and is determining the policies and procedures of the operating company flying the flag of El Salvador.

Re Taca, S. A., Foreign Air Carrier Permit (Docket No. 774).

Appeal from Interlocutory Order Dismissed

A WATER company's appeal from a commission order permitting a borough to examine its books for the purpose of determining the proper purchase price of the utility property was dismissed by the superior court of Pennsylvania. The court ruled that no appeal to the courts could be taken from a commission order which was only interlocutory.

In answering a contention that no hearing had been allowed and that the requirements of due process had not been satisfied, the court quoted this statement of former Justice Harlan Stone of the United States Supreme Court:

> The demands of due process do not require a hearing, at the initial stage or at any particular point or at more than one point in an administrative proceeding so long as the requisite hearing is held before the final order becomes effective.

Womelsdorf Consolidated Water Co. v. Pennsylvania Pub. Utility Commission et al. 50 A2d 548.

Court Has Jurisdiction over Action to Collect Toll Charges

THE supreme court of Pennsylvania reversed a lower court decision against a telephone company in its action to recover toll charges collected by a hotel.

The hotel contended that since reasonableness of the rates on which the charges were based was the subject of an independent proceeding before the commission, no court action could be brought until the commission had made its determination.

The court overruled this argument and assumed jurisdiction of the matter with this ruling:

> It may be that the consideration of this complaint by the commission will result in providing defendant with a defense in whole or in part to the present action and in a consequent total or partial defeat of plaintiff's claim, or its decision may form the basis of a claim for refund, but in no event can it impair or in any manner affect the question of the jurisdiction of the court over the present action.

Bell Teleph. Co. v. Philadelphia Warwick Co. 50 A2d 684.

Appellate Court Bars Unauthorized Competition

A NEW YORK decision against a licensed intracity motor carrier which sought to stop an unauthorized carrier from continuing a competing service was reversed on appeal.

The carrier bringing the action had obtained a certificate of convenience and necessity from the state and a franchise from the city of New York. Its competitor, which admittedly had no certificate or franchise, contended that, since its service was limited to tenants of certain apartment buildings, it was rendering a private service and not subject to regulation as a common carrier. In answer to this argument the court stated:

> The argument of defendant that defendant is not a common carrier operating for the

use and convenience of the public is equally groundless. That it is a common carrier as the term is defined in the Transportation Corporations Law heretofore quoted (§§ 65, 66) cannot be doubted. That it is operating its busses for the use and convenience of the public is equally clear. The fact that defendant carries only tenants of the landlords with whom it has contracted or with whom it may hereafter contract is not a sufficient limitation to remove the public character of its service.

The rule is well established that an operation need not be open to all to make it a public use.

Under the theory of the competitor, the court pointed out, a private bus operator could contract with every apartment house in a well-settled area and transport almost an entire neighborhood without franchise or certificate. This would deny the public the protection which regulatory statutes afford and would deny the city the revenue forthcoming from a holder of a municipal franchise. *Surface Transp. Corp. of New York v. Reservoir Bus Lines, Inc. 67 NYS2d 135.*

Sale to Affiliate Approved

THE Lehigh Valley Transit Company, a subsidiary transportation company, was authorized by the Securities and Exchange Commission to sell its electric facilities and related properties for cash to an affiliated electric company. These facilities constituted an integral part of the electric company's system.

It would be more economical for the purchasing company to acquire the properties at the agreed price than to buy electricity from other sources.

The sale and acquisition constituted essential steps towards compliance with a holding company simplification order, and the selling company would acquire funds with which to effectuate a simplification of its capital structure as required by the commission. *Re National Power & Light Co. et al. (File No. 54-51, Release No. 7169).*

Limited Rate Increase Allowed Water Utility

THE Maine commission allowed a water utility an increase in the amount which it could charge for its fire protection service where it appeared that the amount being paid by the town was not its proper share of the company's revenue needs.

The commission also disposed of requests by several citizens that the utility be ordered to extend its mains to an area in the process of being developed, and stated:

> They should not and did not expect the company to invest substantial sums of money for mains, etc., while the real estate was being developed, so that the company was put in the position of gambling on the success of the project.

Caribou Water Works Corp. v. Itself (FC No. 1244).

Restoration of Telephone after Acquittal of Gambling Charge

A RETAIL butcher whose telephone was removed at the time of his arrest on a bookmaking charge brought an action, after his acquittal, for an order directing the police commissioner to approve and the telephone company to restore telephone service in his store. The New York Supreme Court granted the order after observing that the only charges of unlawful use of the telephone

were those of which he was acquitted.

The court conceded that perhaps the company might not be able to restore the telephone forthwith but ruled that it should do so with reasonable promptness. The subscriber should not be required to wait as though his name were added to the waiting list as of the date of his acquittal. *Salter v. New York Telephone Co. et al. 67 NYS2d 396.*

Contract Carrier May Not Engage in "Casual" Transportation

A CLAIM by a motor carrier that it was proper for it to carry commodities other than ice cream, films, and newspapers for which carriage it had authority under a contract carrier permit was overruled by the Utah Public Service Commission.

The carrier relied on a statutory exemption to the effect that casual or occasional transportation of persons or property for hire could be carried on without commission approval. The commission pointed out that this exemption was available only to those persons not regularly engaged in the business of transportation and consequently could not be claimed by a contract carrier. *Re Wycoff (Case No. 2901).*

Other Important Rulings

A STREET railway company was permitted by the Missouri commission to abandon its track and service and to substitute bus service where operation of the streetcar line was, and would continue to be, unprofitable. Testimony opposing abandonment, based partly on observation but principally upon assumptions and inferences, was not considered sufficient to rebut the company's evidence that the service was operated at a loss. *Re St. Louis Public Service Co. (Case No. 10,814).*

The Uniform System of Accounts for Electric Public Utilities as adopted by the National Association of Railroad and Utilities Commissioners was deemed by the Louisiana commission to be a reasonable system of accounts for electric companies. It had been developed from actual public utility accounting practice, was peculiarly adapted to public utility economics, and contained special provisions to eliminate the imposition of the undue burden of too great detail upon the smaller electric utilities. *Louisiana Pub. Service Commission v. Oak Grove Utilities Co., Inc. et al. (No. 4350, Order No. 4442).*

The Milwaukee Gas Light Company was authorized to adopt a rule providing for the denial of future applications for space-heating service of any nature and denying service for the heating of buildings under construction, where it appeared that, if applications for space heating were not restricted immediately, the company would not have sufficient capacity available in the 1947-1948 heating season to meet peak-day demands. *Re Milwaukee Gas Light Co. (2-U-2178).*

The application of a motor carrier for an extension of its permit, so that in addition to being authorized to haul grain during the harvest time it might render a similar year-round service, was denied by the Colorado commission on the ground that the evidence did not show existing service to be inadequate or that the proposed operation would not impair the efficient service of carriers already serving the area. *Re Woodard (Application No. 8063-PP, Decision No. 27292).*

NOTE.—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

PREPRINTS

OF CASES TO APPEAR IN

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Cleveland Electric Illuminating Company

v.

City of Cleveland

No. 12,604
January 24, 1947

APPEAL *by electric company from municipal rate ordinance; ordinance rates held to be insufficient and rates in effect prior to passage of ordinance substituted.*

Commissions, § 21 — Duty to follow state law.

1. The Commission, as an arm of the state legislature, is bound to follow the state statutes as the Commission understands them in the light of the interpretation placed upon them by the state supreme court, p. 70.

Appeal and review, § 82 — Appeal from rate ordinance — Burden of proof.

2. A public utility appealing to the Commission from a municipal rate ordinance is required to bear the burden of establishing the unreasonableness of ordinance rates, p. 70.

Appeal and review, § 83 — Appeal to Commission — Rate ordinance.

3. On an appeal to the Commission from a rate ordinance the Commission acts administratively, either when it exercises the legislative direction to fix a reasonable rate or when it determines whether the rate fixed by ordinance is just and reasonable; and the Commission function is to determine the justness and fairness of the rate, not whether it is confiscatory, p. 70.

Rates, § 5.1 — Function of Commission — Substitute for ordinance rate.

4. The Commission, in fixing a substitute rate for a rate fixed by municipal ordinance, is required to fix a fair and reasonable rate—not a rate which may be merely nonconfiscatory, p. 70.

Valuation, § 21 — Statutory procedure — Appeal from ordinance rates.

5. The Commission, in determining fair and reasonable rates, is confined to the use of the valuation procedure as set forth in the statutes, whether in the initial determination of the reasonableness of a rate ordinance or in the determination of a substitute rate; and the Commission is circumscribed in the discretion which it may use in ascertaining a rate base, p. 70.

Rates, § 174 — Reasonableness — Property value as a factor.

6. Implicit in the statutes is the mandate that in ascertaining the reasonableness and justness of rates and charges the Commission must do so with due regard to the value of the property used and useful in the rendition of the service concerning which rates are to be prescribed, and to this end the Commission may investigate and ascertain the value of the property and prescribe the details of the inventory of the property of the utility, p. 73.

Valuation, § 75 — Reproduction cost — Inventory and appraisal.

7. An inventory and appraisal showing, first, dollars of surviving assets and, second, major items of equipment in each account, resulting in a valuation approximately the same as if a listing of physical units and a pricing formula had been employed, met both the substantive and procedural requirements of state law and Commission rules, p. 73.

Valuation, § 379 — Right of way — Trended original cost — Federal indices — Overheads.

8. Proof of the value of rights of way, based on trending of original cost by applying Federal indices of local farm prices to rural rights of way and specially developed indices of value changes for urban rights of way, with the addition of overhead costs to the resulting value only to the extent that they were not included in the original cost which was trended, appeared to produce a fair result; the method of proof, while novel, was saving of both time and expense, p. 77.

Valuation, § 261 — Power plant site — Title question.

9. A power plant site should not be included in the rate base at less than full value because of a contention that a portion of the site is filled land to which a public utility company has no title or an imperfect title, where the company occupies the land and uses all of it in service, p. 78.

Valuation, § 125 — Overheads — Addition to land value.

10. Overhead costs such as interest and taxes during construction, although not adding to the value of land as such, do add to the value of a utility as an operating property, and they are properly capitalized as assets on the books of the company and included in determining value for rate making, p. 79.

Valuation, § 104 — Accrued depreciation — Statutory requirement — Reserve.

11. A statutory provision for deduction of "depreciation, if any, from the new reproductive cost as of a date certain, for existing mechanical deterioration" cannot be construed to read "depreciation reserve, if any," p. 81.

Valuation, § 96 — Accrued depreciation.

12. Accrued depreciation must be reckoned in "value" dollars so long as value is used as a rate base, p. 81.

Valuation, § 410 — Qualification of witness — Depreciation question.

13. Witnesses, who are not engineers, by their own testimony disqualify themselves as competent to testify concerning physical depreciation of property when they testify that they have made no inspection of the property, p. 81.

Valuation, § 101 — Accrued depreciation — Observation method.

14. A determination of accrued depreciation by actual inspection and testing of units of property and comparison with new units, giving consideration to characteristics of units, operating costs, maintenance and replacement record, and similar factors, is acceptable in ascertaining value for rate making, p. 81.

Valuation, § 40 — Rate base — Reproduction cost as measure.

15. Reproduction cost new less depreciation was found to represent the value of electric utility property for rate making, p. 81.

Valuation, § 290 — Working capital — Minimum bank balance.

16. An item representing minimum bank balance requirement should be excluded from working capital in the absence of convincing evidence as to the necessity for such item, p. 83.

Valuation, § 307 — Working capital — Electric utility.

17. Working capital of an electric utility was allowed in an amount sufficient to cover one-eighth of operating expenses, deposit to guarantee workmen's compensation, and materials and supplies, p. 83.

Rates, § 199 — Necessity of allocation — Appeal from ordinance rates.

18. An allocation of facilities jointly used in furnishing service to customers whose rates are fixed by ordinance and nonordinance classes of customers is necessary in order to arrive at the value of property used and useful on an appeal from ordinance rates, p. 83.

Apportionment, § 51 — Property values.

19. Principles incorporated in any basis of allocation of property jointly used in the furnishing of several services must be in harmony with the economics of the results of operation, consistent throughout, and give proportionate consideration to the purposes for which the property is provided and expenses paid; and they must produce equitable results not only in the instant case but in future cases, p. 83.

Apportionment, § 54 — Property jointly used — Noncoincident peak method — Temporary war loads.

20. Temporary wartime loads should not be included in the determination of respective noncoincident peaks (maximum loads) that ordinance and nonordinance groups of customers place on a particular facility of an electric utility, in allocating property jointly used for the purpose of testing ordinance rates, p. 83.

Accounting, § 7 — Revenues and expenses — Test period.

21. Revenues and expenses for a given period must be matched in determining net income for such period, and the expenses caused in producing revenues must be charged against such revenues; and this rule applies whether the expenses are actually experienced in such period or in another period, p. 85.

Expenses, § 119 — Reserve for postwar adjustments.

22. An appropriation by an electric company to a reserve for postwar adjustments should be allowed as an operating expense when the size of the reserve accumulated during the war period is reasonable in relation to the probable amount of postwar costs resulting from amortization and war operations, expenses involved in the creation and use of the reserve are of the type properly chargeable as operating expenses, and the method of accounting results in charging the expenses caused by war operations and the amortization practices against the revenues of the war period, p. 85.

Accounting, § 7.6 — Reserve for postwar adjustment — Restriction.

23. An electric company which is permitted to include appropriations to a reserve for postwar adjustment as an operating expense should be required to continue to use its reserve for postwar adjustment for the relief of operating expenses, subject to the continuing supervision of the Commission, where allowance of the expense is based on the accounting practices as outlined by the company, p. 85.

Expenses, § 89 — Negotiations in rate case.

24. A company's expense in attempting to negotiate an acceptable rate ordinance with a municipality should, when reasonable, be allowed as an operating expense, p. 87.

Expenses, § 89 — Appeal from rate ordinance.

25. An electric company's expense in prosecuting an appeal from a rate ordinance should be allowed as an operating expense if the appeal is justified. p. 87.

Expenses, § 46 — Charitable and civic contributions.

26. Charitable and civic contributions, found to be reasonable when tested by contributions of others and contributing to the general welfare of the locality, should be allowed as an operating expense, p. 88.

Expenses, § 49 — Cost of funding pension plan.

27. Costs of funding a pension plan for employees, chargeable as a deductible item for income tax purposes, should be allowed as an operating expense, p. 88.

Return, § 87 — Electric utility.

28. A return of 4.06 per cent on the value of electric utility property, provided by ordinance rates, was held to be inadequate; and a return of 4.43 per cent, provided by rates in effect prior to passage of the ordinance, did not appear to be excessive, p. 90.

Valuation, § 406 — Evidence in rate cases — Commission rules.

Rules of Ohio Commission governing the presentation of expert evidence before the Commission in rate cases, p. 76.

By the COMMISSION:

History of Case

This is an appeal from Ordinance No. 338–44 enacted by the council of the city of Cleveland, Ohio, fixing residential and general commercial rates for alternating and direct current electricity supplied in the city for a period of two years commencing July 7, 1944.

On July 1, 1944, the Cleveland Electric Illuminating Company filed its appeal herein and elected to charge rates under the schedules in effect prior to the effective date of Ordinance No. 338–44 and filed an undertaking with this Commission conditioned as provided in § 614–45 of the General Code of Ohio.

[The Commission, continuing the history of the case, states that the Office of Price Administration was notified of the pendency of the appeal, and the company consented to OPA intervention. Chester Bowles, Price Administrator, intervened.

The Commission fixed June 30, 1944, as the date certain for the determination of all matters to be determined in the proceeding as of a date certain. Hearings were held.

The proceeding was under § 614–44 to § 614–46 of the General Code of Ohio. All parties consented to Commission jurisdiction with respect to the appeal.

The company claimed that Ordinance No. 338–44 was unjust and unreasonable and that the rates for elec-

tricity would not yield just and reasonable compensation or sufficient revenue to pay the cost of supplying service or a reasonable return on the value of property used and useful. The company further complained that the ordinance was unjust and unreasonable because the rates were contrary to state and Federal Constitutions.

Rates in effect at the time of the passage of the ordinance appealed from were the result of negotiations and agreement between the company and the city in 1940.]

In support of its contention that the rates prescribed in the ordinance are sufficient to yield reasonable compensation for the service rendered the city in its brief sets forth sixteen claims or contentions. In substance, they are as follows:

1. That under the Ohio statutes the only standard prescribed for the Commission to determine the justness and reasonableness of ordinance rates is that such rates shall be "just and reasonable" under all the circumstances of the case, and that if such statutes must be construed to require a determination of the "fair value" of the company's property preliminary to a final determination as to whether the rates were "just and reasonable," proof of value as determined pursuant to §§ 499–9 and 614–46 of the General Code would only be evidential factors to be considered with "due regard" in arriving at a finding of fair value, or other rate base, in the process of ascertaining the justness and reasonableness of rates.

2. That any limit which the supreme court of Ohio has heretofore imposed upon the Commission's grant of discretionary power implicit in the words "due regard to the value" as used in § 614–46 of the General Code, should now be disregarded in light of the decision of the United States Supreme Court in the Hope Case. (Federal Power Commission v. Hope Nat. Gas Co. [1944] 320 US 591, 88 L ed 333, 51 PUR(NS) 193, 64 S Ct 281.)

3. That a fair return to the company on its system-wide business should not exceed 5 per cent of its book plant cost less credit balance of its book depreciation reserve, and a 4 per cent over-all return if the company's values are used.

4. That the only competent evidence of fair value in the record herein is the book cost less credit balance of the reserves for depreciation.

5. That the company's inventory and appraisal filed herein does not comply with § 499–9B or with Rule XXV of the Commission. Further, that the inventory and appraisal does not generally show, and that the oral evidence does not generally help to show, the "cost" of items in the inventory but trend of dollars of the original cost to prices claimed as of June 30, 1944, in the midst of chaotic economic conditions, and while no real market existed.

6. That the inventory, exhibits, and oral evidence of the company's reproduction cost new less depreciation determination do not comply with § 499–9E and Rule XXV of the Commission because it generally fails to show "the percentage amount of each class of depreciation . . . specifically set forth," and also does not show that all factors of depreciation were fully taken into account.

7. That no value should be assigned

to the site of the Lakeshore Power Plant at East 70th street and the lake front because of imperfection in the title of the company.

8. That no Ohio statute sets up any requirement for the measuring of depreciation but leaves the final determination to the Commission.

9. That the company's inventory and appraisal by the trending process under the circumstances of this case is not a safe basis for determination of a reproduction cost new less depreciation estimate.

10. That the company's determination of depreciation is unsound.

11. That the so-called "tax savings" of $4,350,000 due to accumulated depreciation of war facilities which the company charged as an expense above "the line" should be treated as remaining in the income account.

12. That the company's expenditures for the instant rate case should not be considered in testing the reasonableness of the ordinance rates and that the determination of where the burden of such expense should lie is provided in § 614–78 of the General Code.

13. That the company's claim for expense of negotiation with the city's council in the amount of $15,678.55 should be elimniated.

14. That the company's claim for allowance as expense of charitable contributions in the amount of $69,557.42 should be eliminated.

15. That the company's claim for an allowance as expense of $343,615.-80 covering cost of funding of pension plan for company employees should be eliminated.

16. That the company's evidence herein shows that at the time it filed its appeal it knew or should have known that the net earnings from the ordinance services had been and would be not less than the 6 per cent return it claims on any fair valuation, or rate base, and allocation of the plant and expenses to such services.

These claims will be discussed in the course of this finding.

Rate Base

[1–5] As we understand the claims of the city with respect to rate base hereinbefore set forth, and as amplified in oral argument by city's counsel they are in substance that this Commission is not required to find the value of the company's property by ascertaining its reproduction cost new less depreciation, and that if "fair value" were to be used as the rate base, that the evidence in this case would require that such value be the book cost less credit balance of reserve for depreciation as shown by the records of the company, that the Ohio statutes provide no standard of measurement for the determination of the amount of depreciation, and further that the company's determination of accrued depreciation is unsound.

The record in this case indicates that the city in its negotiations with the company prior to the passage of the ordinance in question gave consideration to a report recommending the adoption of the ordinance in question which report set forth a prudent investment rate base. Counsel of the city by brief and oral argument attacked the use of a reproduction rate base. We are mindful of the continuing controversy anent rate base matters at least since the case of Smyth v. Ames was decided in 1898, 169 US

466, 42 L ed 819, 18 S Ct 418. However, as an arm of the legislature of the state of Ohio we feel bound to follow the statutes of Ohio as we understand them in the light of the interpretation placed upon them by the supreme court of Ohio. What this Commission said in the matter of the appeal of The East Ohio Gas Company from an ordinance of the city of Cleveland (East Ohio Gas Co. v. Cleveland [1944] Commission Cases Nos. 11,001, 11,218, and 11,442) is applicable here. It was there stated [in 56 PUR (NS) 73, 77–79]:

"In its 'Memorandum of Law on What is a Just, Reasonable and Nonconfiscatory Ordinance Rate' the city states at page 1:

" '*A*. There is no statutory provision imposing upon the Commission any formula by which it shall decide the question whether an ordinance rate is just and reasonable, or unjust and unreasonable.'

"At page 2 thereof it further states:

" 'The legislature has appropriately provided no formula for council to follow because council in fixing a maximum rate acts legislatively, East Ohio Gas Co. v. Cleveland (1938) 24 PUR (NS) 221, 94 F2d 443, cert. den. (1938) 303 US 657, 82 L ed 1116, 58 S Ct 761. The legislature has provided a valuation formula for this Commission to follow when the Commission fixes a substitute rate only because this Commission in fixing a substitute rate acts administratively.'

"The city further calls our attention in its memorandum to a former opinion of this Commission, East Ohio Gas Co. v. Cleveland (1934) 4 PUR (NS) 433, 437, in which the Commission said:

" 'There is no statutory provision imposing upon the Commission any rule by which it shall decide the preliminary question as to whether the ordinance rate is, as a matter of fact, unreasonable but when the Commission has determined that it is unreasonable and begins its investigation through which it is to determine the rate to be fixed by the Commission then there are specific statutory directions that must be followed.'

"It is apparent in its discussion of this subject that the city has in mind the possible use by council of more than one formula for the determination of a rate base and further that this Commission is free in the determination of the reasonableness of a rate ordinance to employ such formulae.

"It would therefore follow that this Commission 'may find and declare' that a rate fixed by ordinance is just and reasonable by the use of one or several formulae, although if the Commission, in its judgment, predicated on one or more of these formulae 'shall be of the opinion that the rate . . . so fixed by ordinance is or will be unjust or unreasonable' then it must use but one formula, namely, the statutory valuation procedure in the determination of a 'just and reasonable' rate. The above quotations are from § 614–46 General Code.

"We agree with the city that in fixing a substitute rate we are acting administratively, but it is not stated in what capacity we act when we 'find and declare the city rate . . . so fixed by ordinance is just and reasonable and ratify and confirm the same.' If the Commission in determining the reasonableness of an ordinance rate is not bound by any formula, then as a

practical matter it would seem to follow that the Commission should adopt the formula or formulae employed by the city in its determination of a fair and reasonable ordinance rate. Unless this were done it would seem impossible for the two bodies, a city council and this Commission, ever to arrive at the same just and fair rate because it is well known that results may vary depending upon the formula used. It is obvious in this case that the city would not present this argument unless such a result would ensue. On an appeal to this Commission by a public utility from a rate ordinance it is required to bear the burden of establishing the unreasonableness of the ordinance rate. This proof is made to the Commission. Is it contemplated that the utility in such case would be limited in its proof to evidence which would be competent only under use of the formula adopted by the city in arriving at the ordinance rate? Is it contemplated that such evidence, if it is not evidence relating to valuation as required by the Ohio statutes, shall not be used or considered by the Commission in fixing a reasonable substitute rate if the ordinance rate is found to be unreasonable? It would seem to follow from the argument advanced that evidence competent in one instance on the question of fairness and reasonableness would be incompetent in the same proceeding upon the same question. We do not believe that this Commission had this result in mind at the time the foregoing statement was made by it and the record of that case refutes the contention that the Commission intended such consequences.

"In our opinion we are acting administratively either when we exercise our legislative direction to 'fix and determine the just and reasonable rate' or when we 'find and declare that the rate . . . so fixed by ordinance is just and reasonable.' Our function in passing upon an ordinance rate is to determine its justness and fairness not whether it is confiscatory. In fixing a substitute rate our legislative mandate is to fix a fair and reasonable rate. It may be true that a rate fixed by a city council in the exercise of its legislative power may be nonconfiscatory in the judicial sense but nevertheless unjust and unreasonable. It is likewise true that a rate fixed by this Commission may be fair and reasonable from the standpoint of both the utility investor and the consumer and be much above the zone of confiscation. In other words, the function of this Commission it seems to us is not to establish a rate which may be merely nonconfiscatory but rather the establishment of rates that are fair and reasonable. We believe that the interpretation placed upon the statutes of Ohio by the supreme court of this state have confined us in the determination of fair and reasonable rates of a gas utility to the use of the valuation procedure as set forth in the statutes whether it be in the initial determination of the reasonableness of a rate ordinance or in the determination of a substitute rate."

In East Ohio Gas Co. v. Public Utilities Commission (1938) 133 Ohio St 212, 22 PUR(NS) 489, 12 NE2d 765, Syllabus 1, it is stated:

"The provisions of § 499–9, General Code, required that property, other than land, of a public utility to be valued by deducting 'the sum of the amounts of depreciation from the sum

of the new reproductive costs' as of the date of the investigation. It is the duty of this court upon a review of orders of the Public Utilities Commission not only to determine whether lawful rules were applied by the Commission but also to decide whether upon the record the orders made were against the weight of the evidence or resulted in confiscation of property."

The Supreme Court of the United States in Federal Power Commission v. Natural Gas Pipeline Co. (1942) 315 US 575, 586, 86 L ed 1037, 42 PUR(NS) 129, 62 S Ct 736, observed that Commissions are free "within the ambit of their statutory authority" to make a determination of rates. In our opinion we are circumscribed in the discretion which we may use in ascertaining rate base.

There is nothing in the present record which relates the book cost of the company's property less the depreciation reserve to its present reproduction cost depreciated, nor does the evidence of book cost in any way indicate that the evidence of reproduction cost is unsound or unreliable as a measure of present fair value.

Inventory

[6, 7] The city assails the inventory filed herein by the company asserting that the same does not comply with § 499–9 of the General Code nor with Rule XXV of this Commission.

The inventory is contained in Co. Ex. 3–27. Each inventory exhibit contains in effect two inventories: First, an inventory of dollars of surviving assets and, second, an inventory of major items of equipment in each account. With respect to its inventory and appraisal the company in its brief states:

"The determination of reproduction cost new as of the date certain, June 30, 1944, presented by Mr. K. A. Farrell was based almost wholly upon the inventory of recorded book dollars. The items listed in this section of the inventory are called 'surviving assets.' The term 'assets' as here used may be defined as the recorded book cost of property. When modified by the word 'surviving' it, of course, refers to property currently in existence (i. e., not yet retired). Hence, surviving assets would refer fundamentally to the book value of surviving property in a given account at a given date. However, in order to properly apply price trends to the book cost of property to obtain reproduction cost new at a date certain, it is necessary to know not only the total balance but a separation of that balance to show the dollars applicable to each year of construction. Thus, the term 'surviving assets' as it is specifically used here refers to a tabulation of the recorded book cost of the elements of property actually surviving, set forth by year of construction in each fixed asset account or portion thereof.

"This inventory is complete in every detail except for minor amounts of property where only the total surviving assets (i.e., not set out by years of construction) are presented. (In these cases pricing was used as the primary basis of reproduction cost new by Mr. Farrell.)

"Surviving assets are, in many instances, broken down to show in separate columns the portions of the total surviving assets from each year of construction which represent certain

major classes or types of property. For example, in Account 542, Prime Mover Equipment, there are shown separately the portions of the total surviving dollars in each year which represent foundations, turbo-generators, condensing equipment, engineering, interest, taxes, and other. In a number of cases such breakdown is extremely extensive; for example, Account 562, Company Exhibit 24, pages 37 to 54, and Account 563, Company Exhibit 25, pages 114 to 128. In other accounts complete identification of each dollar of surviving assets with the major items of physical property represented thereby is provided. For example, in Account 554, Distribution Substation Equipment, the surviving assets are broken down to show separately transformers, oil circuit breakers, voltage regulators and other equipment. With respect to the portions covering the transformers, oil circuit breakers and voltage regulators, the particular equipment items represented by each individual dollar entry in the surviving assets are set forth on the pages immediately following the surviving assets for each substation. The size, type, manufacturer, number, and other physical characteristics are given completely for each such item.

"In each case in which the surviving assets represent a conglomerate property, not fully segregated by types within the surviving assets themselves, weighting percentages are furnished showing dollar-wise the proportion of the principal kinds of physical property represented by the surviving assets.

"Thus, if a given account were composed of four major elements; wood poles, copper wire, labor and miscellaneous property, and in a typical year of construction the cost was 20 per cent for wood poles, 25 per cent for copper wire, 50 per cent for labor and 5 per cent miscellaneous, these percentages would be the weighting percentages for this hypothetical account.

"The surviving assets are taken from the books of the company and represent, with respect to the inventoried portion of the total system property, all of the electric property which had not as of the date certain been retired. The weighting percentages represent the actual proportions of the various elements in large representative segments of the company's inventoried property as derived from comprehensive analysis of data, with respect to the construction of such property, concurrently recorded in the regular course of business.

"The accuracy of the books from which the surviving assets are derived is not disputed. In fact, witnesses for the city took occasion to praise the accuracy and completeness of the company records. Mr. Learned checked the weighting percentages presented by the company in its inventory and found that the work had been 'correctly done.'

"Thus, the surviving assets section of the inventory presents a complete and admittedly accurate listing of the property of the company with ample physical identification and segregation of the dollars to enable a most accurate application of appropriate price trends.

"The only basic difference between this sort of inventory and a detailed listing of physical quantities is that in the latter case, for instance, one

states that there are 100 cubic yards of concrete in conduits (with perhaps x per cent added for contingencies), whereas in the former case one states that there are so many dollars worth of conduits constructed in the year 1935 of which 13.23 per cent is in concrete material. The actual unit costs of this concrete material (the basis of price trends) may be ascertained from the books and records of the company for each year of construction. Indeed such ascertainment was one of the methods that the city's witness, Mr. Learned, used in checking the accuracy of the company's statement of surviving assets. See page 1363 of the Record where he states: 'I went back in instances to the billing so that I was satisfied it seemed to be accurately done.'

"The inventory of surviving assets is, therefore, as accurate an inventory of the property of The Cleveland Electric Illuminating Company as it is practical to make, and reflects actual experience which is not available from a field inventory of physical units. Indeed, since the surviving assets represent precisely what actually happened in construction of the property, there is no necessity to provide, either in the inventory or in the pricing, for omissions and contingencies. Liberal allowances for these are required and appear to be provided habitually in reproduction cost new estimates based upon field inventories in order to allow for the inaccuracies of a field count and the occurrence of unknown but expected contingencies. Re Cincinnati Gas & E. Co. (Ohio) PUR1916F 416, Re Cambridge Home Teleph. Co. (Ohio) PUR1930E 65. The lack of necessity for such provisions is one of the substantial advantages of an inventory of surviving assets and the trending method of determining reproduction cost new.

"Each inventory volume contains a complete description of facilities, photographs of the principal elements of the property, technical and engineering data, design prints, and standards of construction where applicable, in addition to a complete listing of the major items of property covered therein. Mr. Learned, engineering witness for the city of Cleveland, stated in his written testimony that there was a list of major items in 'some accounts.' Even the most cursory examination of Company Exhibits 3 to 27, inclusive, will show that major items of equipment, volumetric content of structures, or description and location of land are listed in every account, and in respect of certain structures, overhead services, transformers, and meters complete quantities are listed in detail. Furthermore, Mr. Learned spot-checked the quantities listed and had no criticism of the accuracy of the listing.

"The listing of quantities was specifically designed to be such that by the use of them, together with the complete description of the property, the standards of construction, and the engineering data, an engineer experienced in the construction and operation of an electric utility property or in the appraisal of such property could arrive at an entirely independent estimate of the reproduction cost new of the property.

"The inventory contains all electric property physically located in the city of Cleveland irrespective of its usefulness and, with one minor exception

discussed below, all property outside of Cleveland used in whole or in part for service within the city of Cleveland. That portion of the property inventoried which was not used and useful as of the date certain was either specifically set out in the inventory and not included in the appraisal or was excluded in process of allocation. Portions of certain plant, substation and warehouse sites not considered used and useful as of the date certain were eliminated by Mr. Ostendorf, the company's real estate expert, in his appraised values.

"The exception referred to above was with respect to the mains, secondaries, transformers, and outside street lighting facilities of the overhead distribution system. In the territorial allocation, as appears hereafter, these were allocated on the basis of physical location. Those included in the inventory and the appraisal which were useful to service outside of Cleveland would be substantially offset by those outside of Cleveland which were useful to service inside of Cleveland. These latter were for this reason not included in the inventory or in the valuation."

The foregoing fairly and sufficiently describes the inventory. Implicit in the statutes is the mandate that in ascertaining the reasonableness and justness of rates and charges the Commission must do so with due regard to the value of the property used and useful in the rendition of the service concerning which rates are to be prescribed. To this end the Commission may investigate and ascertain the value of the property of the public utility (§ 499–8 General Code), and shall prescribe the details of the inventory of the property of the utility. In ascertaining the values of the various kinds and classes of property the Commission shall have authority to ascertain and report in such detail as it may deem necessary as to each piece of property owned and used. Such investigation and report shall show such other items concerning values and methods of making valuations as the Commission may deem proper. (§ 499–9 General Code.)

Pursuant to this statutory mandate, the Commission promulgated Rule XXV.

The first five paragraphs of this rule are as follows:

"In re: The publication of a code of rules governing the presentation of expert evidence before the Commission in rate cases, and for the expedition of hearings and disposition of such cases.

"The Commission having under consideration the adoption of a code of rules to govern the presentation of evidence in the formal rate cases to the end that such cases be conducted more expeditiously, and having due regard for the prolixity of technical evidence and time consumed in examination of witnesses, and

"Having further regard for the great number of such proceedings recently filed and now pending and the probability of the institution of many others, and having regard for the burdensome costs that must be incurred if the trial of such cases be conducted as heretofore, and

"Desiring to expedite the hearing and disposition of such cases, and to avoid the long delays heretofore experienced, and to lessen the costs of such proceedings, it is,

"*Ordered,* that the following code of rules be, and hereby is adopted to govern the presentation of testimony, exhibits, etc., and procedure in rate cases before the Public Utilities Commission of Ohio, as far as the same are applicable."

Under subtitle "Testimony of Expert Witnesses" appears the following:

"(5) Wherever testimony is given by the witness as to costs, there shall be a proper breakdown of the elements of such costs on each account, both as to quantities and units."

Under subtitle "Appraisals" appears the following:

"When appraisals are presented, they shall be prefaced by a summary sheet setting forth the valuations for each class of physical property separately under the following columnar headings, using appropriate account numbers and titles.

"1. Material: (a) Direct. (Resulting from application of unit costs to quantities.) (b) Indirect. (Representing associated material items not detailed.)

"2. Labor: (a) Direct. (Resulting from application of wage rates and time employed.) (b) Indirect. (Representing associated labor items not detailed.)"

Under subtitle "In General" appears the following:

"(2) When an appeal is filed from an ordinance of a municipality, the appellant shall within ninety days after the filing of such appeal present to the opposite side for its examination a complete inventory of the property involved, unless for good cause this time is extended by the Commission. Within thirty days after the receipt of a copy of such inventory the opposite side shall indicate in writing its acquiescence thereto or to parts thereof, or shall designate clearly the points upon which it disagrees, using the appropriate uniform accounting numbers. Upon proper showing the Commission may grant additional time within which to answer to such inventory."

It is apparent from an analysis of the foregoing excerpts that Rule XXV is procedural in character and was adopted for the purposes therein stated, namely, "to govern the presentation of evidence in the formal rate cases to the end that such cases be conducted more expeditiously."

That this purpose might be attained it provided in cases of the character now under consideration that "within thirty days after the receipt of the copy of inventory the opposite side shall indicate in writing its acquiescence thereto or to parts thereof, or shall designate clearly the points upon which it disagrees . . . ."

The inventory was filed with the Commission and with the city early in 1945. Hearings on the appeal began on May 15, 1946. Prior thereto no disagreement to the inventory was expressed by the city either to the company or to the Commission. The evidence of both the company and the city is that the inventory and appraisal used by the company resulted in a valuation approximately the same as if a listing of physical units and a pricing formula had been employed. In our opinion the inventory meets both the substantive and procedural requirements of § 499–9 General Code and Rule XXV.

Valuation of Land

[8] The company's evidence of land values was presented by E. L.

Ostendorf of Cleveland, an experienced real estate appraiser, whose testimony was accompanied by a written exhibit showing the basis of his opinion. He arrived at the value of building and yard sites by standard appraisal methods. The company added overhead costs to his values. He trended the original costs of rights of way to the date certain by applying Federal indices of local farm prices to rural rights of way and specially developed indices of value changes for urban rights of way. Overhead costs were added to the resulting value of rights of way only to the extent that they were not included in the original cost which was trended. There was no contest in the evidence or otherwise about the company's claim of value of rights of way. Its method of proof, while novel, was saving of both time and expense, and appeared to produce a fair result.

To the extent that such trends were based on published governmental figures they are free of the normal caveat that accompanies only evidence presented by an interested party. The company's right of way value of $3,149,115 as of June 30, 1944, is, therefore, accepted.

[9] The company's evidence with respect to its 54 building and yard sites was challenged in the evidence with respect to only one site, namely, The Lake Shore Power plant site.

The city claimed that a portion of this site was filled land to which the company had no title or an imperfect title, which fact would diminish its value.

These same contentions were made by the city of Cleveland, with respect to the same site and against the same company in an identical type of proceeding once before, Case No. 210. (See PUR1919A 602; PUR1920B 891.) The Commission then ruled against the city on the grounds that the Commission had no jurisdiction to try title and that in any event the company was occupying the land in question and using all of it in service to the city and that if it did not have this land it would have to have other land of a like character and, therefore, its full value should be placed in the rate base.

The case was taken to the supreme court which affirmed the Commission's decision after certain modifications which had no bearing on this particular issue. Cleveland v. Public Utilities Commission (1918) 98 Ohio St 462, 463, 121 NE 700.

The company contended that the issue was res adjudicata in these circumstances. Whether it is or is not we consider the precedent as both sound and binding and, accordingly, reject the city's contention.

The city further contested the company's claim of value for this site by presenting the testimony of W. R. Granger of Cleveland who was also an experienced real estate appraiser. His appraisal was $199,945 less than the bare land value of $757,745 found by Ostendorf. After a careful examination of the testimony of both witnesses we find that Ostendorf not only supported his appraisal with more pertinent data but also arrived at a more plausible result in the light of the comparative values of the two parcels involved at this site.

The larger parcel has street frontage, water frontage, riparian rights, and advertising value far greater than

the smaller parcel, yet city witness, Mr. Granger, allowed only 5 cents per square foot additional value for these advantages. We are of the opinion that Mr. Ostendorf's appraisal more nearly reflects the true bare land value.

[10] The city also contested the addition of overhead costs to the building and yard site appraisals, although not the right of way appraisals. This objection, made in oral argument, was on two grounds: (1) That there was no evidence in the record to support the overheads added to Mr. Ostendorf's appraisal, and (2) that no overhead costs should be added to land values as a matter of law. Actually the record does show the derivation of the overhead costs used by Mr. Ostendorf. They are found in the written testimony and exhibits of company witness Farrell who testified generally on the subject of overhead costs.

The city offered no evidence contra to Farrell's testimony. Farrell's figures appear in line with our general information on the subject and are rather fully supported in his written testimony. We find that they are correct.

As to the question of law involved it is true that overhead costs such as interest and taxes during construction do not add to the value of land as such. But they do add to the value of a utility as an operating property. They are properly capitalized as assets on the books of the company, under the classification of accounts prescribed by this Commission.

They may be included as assets in the statements upon which investors rely in buying utility securities. They represent either out-of-pocket expenditures or return foregone. They add value to the enterprise. It is significant to note that no claim is made in this case for a separate element of value in the nature of going concern value. This is in line with the ruling of the Ohio supreme court in the case of Hardin-Wyandot Lighting Co. v. Public Utilities Commission (1928) 118 Ohio St 592, PUR1928D 560, 162 NE 262, where it was held that going concern value should not be added separately if all overhead costs have been included in the valuing of tangible assets. In the case of land it matters little whether these elements of value are considered in connection with the land to which they are directly related or treated separately so long as there is no duplication. It is the practice of this Commission to include such overheads in determining value. The East Ohio Gas Co. v. Cleveland (1944) 56 PUR(NS) 73.

We are of the opinion the practice is sound and consistent with § 499-9, paragraphs A, B, and C of the General Code, which was adopted prior to the decision in the Minnesota Rate Cases (1913) 230 US 352, 57 L ed 1511, 33 S Ct 729, 48 LRA(NS) 1151, Ann Cas 1916A 18, which disallowed certain overhead costs attributed to lands. We, therefore, approve the site values found by Ostendorf to aggregate $2,424,723 as of June 30, 1944, including overheads.

It is pertinent to note that the evidence shows that substantially all of the sites and rights of way of the company increased in value in varying degrees throughout the ordinance period. This increase is not reflected in the land value figures included in the rate base for this case.

It is also pertinent to note that wit-

ness Ostendorf stated that his appraisal did not include the land not used and useful for electric service to the city of Cleveland.

Valuation of Property Other Than Land

The company presented an estimate of reproduction cost new ascertained principally by the use of price trends. It claims that where proper data are available for the construction and application of price trends and the correct method of using them is adopted that the process is relatively simple and devoid of much of the speculation involved in making a reproduction cost new estimate of a large quantity of property.

In its brief the company states, "A price index is a mathematical method of expressing the variation over a period of years in the price of a given commodity, service, or property in relation to the price for a particular (or base) year or period. Normally the price index is constructed by expressing the prices for each year as a percentage of the price for the base year. . . . Thus, if the price index is known and the price in any one year is known, as in this case where surviving assets by years of construction are set out, then the price in any other desired year may be computed. . . ."

The application of the company's method is fully and completely detailed in Company Exhibit 30 and no useful purpose will be served by further comment here.

Mr. A. P. Learned, a city witness and an engineer of long experience in making reproduction cost new estimates, at page 2 of his testimony in City Exhibit 8 makes the following comment concerning the trends as developed by company witness Farrell:

"Our check of the company's trending and the development of weighting and percentages indicated they were correct in their arithmetic and the basis for such trends were not materially out of line. However, it should be said that all trending is an approximation that depends upon correctness, detail, and uniformity in keeping accounts, correctness of trend indices, correctness of judgment for breakdown of costs where detail is lacking, and the final matter of judgment in converting from piecemeal construction to a wholesale job. All of these steps are in addition to those necessary in pricing a detailed inventory.

"I want it understood that in view of the limitation of my assignment I have used company data in all my computations after the spot check outlined and then have allocated both property and expenses in accordance with my own findings. I should say further that I did supplement these data with additional data furnished upon request by the company."

Mr. Learned in his oral testimony at pages 1360–1370 of the record on direct examination made further comments upon the method employed by the company in making its valuation and also with respect to the results thereof as follows:

[Testimony omitted relates to the employment of Mr. Learned, expense which would have been entailed if the city had made a separate inventory, and a decision which had been reached to make a check, a spot check, of data submitted by the company. It was disclosed that city representatives visited some of the property, that they

checked trends and weighting percentages. The witness explained his views on trending figures.]

Q. Then, I understand, in substance, what you say is that the figure that has been arrived at here by the engineers for the company reasonably approximates the figure which would be arrived at had a pricing formula been employed? *A.* I think that is a correct statement, yes, sir.

Q. Then could you reasonably say that the figure which has been used in this case by the company would represent a reproduction cost new estimate? *A.* I would say approximately so, yes, sir. And if I may just amplify, just a little bit on that, I say that without hesitancy because a very considerable part of this stuff that runs up into real money is machinery, and we know approximately what that costs, and then on the other items it may be that there is not quite enough shaved off, but that amount you shave off, when you get it down to final percentages it just won't make or break the amount one way or the other. That is what it amounts to.

Just as an engineer, we very often —I doubt whether two engineers would arrive at an answer within maybe—I would think they are very conscientious if they were within 3 per cent to 5 per cent. Sometimes it is a lot further apart from that and then I wonder whether it is conscientious.

Determination of Accrued Depreciation

[11–15] In the city's brief it is said: "We claim that in the light of the evidence in this case the credit balance of the depreciation reserve account is the only fair measure of existing accrued depreciation."

This position is supported by the testimony of city witnesses C. W. Smith and Edward L. Dunn of the staff of the Federal Power Commission.

Section 499–9F of the General Code provides: "The net value as of a date certain, of all physical property other than land owned by such utility or railroad, to be derived by deducting the sum of the amounts of depreciation from the sum of the new reproduction costs."

Mr. A. P. Learned, witness for the city and an expert on valuation, testified with respect to determining accrued depreciation as follows:

"The correct and proper method of arriving at the depreciation existing in an electric utility property is the observation method and this method is usually used by engineers."

Section 499–9E of the General Code refers to "depreciation, if any from the new reproductive cost as of a date certain, for *existing* mechanical deterioration. . . ." (Italics ours.)

Clearly this language could not be construed to read "Depreciation reserve, if any, etc."

So long as value is used as a rate base we think that a determination of accrued depreciation must be reckoned in "value" dollars. The law of Ohio seems to be well established by the following precedents: Lima Teleph. & Teleg. Co. v. Public Utilities Commission (1918) 98 Ohio St 110; PUR 1919A 888, 120 NE 330; Cincinnati v. Public Utilities Commission, 113 Ohio St 259, PUR1925E 432, 148 NE 817; Ohio Bell Teleph. Co. v. Public Utilities Commission (1936) 131 Ohio St 539, 15 PUR(NS) 443, 3 NE2d 475; East Ohio Gas Co. v.

Cleveland (1944) 56 PUR(NS) 73, 84; Re Ohio Bell Teleph. Co. (Ohio) PUR1931B 46; Cleveland v. Public Utilities Commission (1918) 98 Ohio St 462, 121 NE 700.

In Company Exhibit 30 at page 75, witness Farrell, presented by the company, described the method used by him in determining depreciation as follows: "Depreciation was found by actual inspection and testing of the units of property in the field and comparing those units with *new* units of property; by studies of the characteristics of the existing units of property and comparing those characteristics with the characteristics of new units of property; by studies of the operating costs of existing units of property and likewise comparing those costs with the costs of new units of property; by a study of the maintenance and replacement record, by units of property, and other similar investigations, all of which are detailed under the various accounts."

A review of Mr. Farrell's written testimony on this subject convinces us of the care and thoroughness with which he made his study. The conclusion is apparently supported by Mr. Learned, witness for the city. In City Exhibit 8 at page 1, Mr. Learned testified as follows: "We did spot check in a few cases quantities, where they had been furnished, for depreciation as claimed by the company finding no material grounds for criticism so far as we went. However, I have not been entirely satisfied with the functional depreciation of power plants although in my allocations I have not departed from the company's findings."

In contrast with the testimony of the city witness Learned is the testimony of city witnesses Dunn and Smith, neither of whom is an engineer. Mr. Dunn testified that he had made no inspection of any of the company's property. Witness Smith testified as follows: "In other words, accrued depreciation and depreciation expense are merely two phases of the same thing, depreciation. One represents the cost of capital allocated to a given year, and the other the cost of capital which is to be charged against all past operations.

"I do not think there is any greater fallacy than the theory, never shared by economists or accountants, that depreciation is a physical thing. It is an economic thing. It is the using up of service life.

"Physical depreciation is important. It is important to know in determining depreciation the condition of property, but I do not believe any competent engineer would any more base depreciation sources, and certainly I would not, and I am not an engineer, but I made many depreciation studies and testified as to depreciation rates on many occasions—I do not believe that anyone would base his determination of service lives on inspection of property any more than an insurance company would base insurance rates upon the physical examination of individuals alone."

We are here concerned with physical depreciation of the property involved and witnesses Smith and Dunn by their own testimony disqualify themselves as competent to testify concerning this fact.

We therefore adopt and find that the determination of accrued depreciation as made by the company is correct.

It thus appears that the company estimates of value were compiled in such form and in sufficient detail as to permit of a check as to the reasonableness of such estimates. It further appears that witnesses for both the city and the company are in substantial agreement as to the accuracy and reasonableness of the estimates of a reproduction cost new of $210,299,580 and a reproduction cost new less depreciation of $170,082,623 submitted by the company exclusive of any allowance for working capital and materials and supplies. We therefore find that such is the value in the determination of the issues in this case. The details of such determination are set forth in Tables 1 and 2 made a part of this finding.

Working Capital

[16, 17] For entire company operations including the steam-heating operations, the company has included for working capital the following amounts:

One-eighth of operating expenses for year ended June 30, 1945	$3,075,000
Deposit to guarantee workmen's compensation	175,000
Minimum bank balances	400,000
Materials and supplies exclusive of coal	2,040,000
Coal	1,940,000
Total	$7,630,000

On this amount there is allocated to electric operations the amount of $7,313,000.

The city excludes the $400,000 of minimum bank balances, a reduction of $469,000 in the amount of materials and supplies, a reduction of $503,000 in allowance for coal supply, offset to the extent of $133,000 higher allowance than the company in the computation of one-eighth of the annual operating expenses. On the record in the case, it appears that the amounts included by the company for coal and materials and supplies are reasonably required for the operations of the company. As to the $400,000 minimum bank balance requirement included by the company, the evidence as to the necessity for this is not too convincing. We are therefore allowing the amounts included by the company, exclusive of the item of $400,000 of minimum bank balances, which produces an amount of working capital of $6,939,000 for all electric operations as compared with the company claim of $7,339,000 and the city allowance of $6,100,000. Adding this allowance to the reproduction cost of $210,299,580 and reproduction cost new less depreciation of $170,082,623 heretofore found before allowance for working capital and materials and supplies, produces a reproduction cost new of $217,238,580 and a reproduction cost new less depreciation of $177,021,623 with inclusion of allowances for materials and supplies and working capital as set forth in Table 2.

Allocation of Jointly Used Property Between the Ordinance and Non-Ordinance Classes of Customers

[18–20] In order to arrive at the value of the property used and useful for the furnishing of service to those customers whose rates were fixed by the ordinance appealed from it becomes necessary to make an allocation of those facilities jointly used in the furnishing of service to both the ordinance and nonordinance classes. Fundamentally both company and city

used the same methods. The greater part of the jointly used property such as power plants, transmission lines, substations, and feeders was allocated by both parties by application of the noncoincident peak method. In applying this method the peaks (maximum loads) that the ordinance and nonordinance groups placed on a particular facility are determined without regard to the time of occurrence of such peaks. The ratio of the ordinance group peak to the sum of the peaks determines the percentage of the facility to be allocated to the service of the ordinance group of customers. The application of this basis for allocation by company and city differed in one respect. In the determination of the nonordinance peaks the city included in these peaks those wartime loads as of the period of determination of the peak, namely, the first year of the ordinance period. The inclusion of these loads in such determination resulted in a lower percentage of jointly used facilities being allocated to service of the ordinance groups. As an example, this method allocated 13.86 per cent of power plant values to the ordinance group whereas the company method allocated 17.89 per cent of the value of these power plants to the ordinance groups.

The company method excluded such wartime loads in the determination of peaks and the resulting percentages for allocation. In applying the percentages thus determined the company excluded from jointly used property to be so allocated the specific facilities for service of wartime customers and in addition to this a 60,000 kilowatt turbo-generator, known as Avon Unit No. 5, and the so-called Lake Shore-Newburg cables, a 2-circuit underground 66,000-volt line forming an additional link between the Lake Shore Plant and the outer high-tension ring which connects to the Avon Power Plant and the Ashtabula Power Plant. These last-named excluded facilities were so treated by the company because in its opinion such facilities were constructed because of the existence or prospect of the temporary war load customers and would not have been required during the ordinance period for adequate service to the permanent customers. After determination of the proportion of property (exclusive of that assigned to wartime loads) assignable to the service of the ordinance groups the company then applied the over-all percentage thus arrived at to the wartime property and assigned the amount thus arrived at to the ordinance group rate base, and as against this credited to the return produced by revenues from the ordinance group the proportionate amount of incremental profit produced by the wartime loads. By the application of this method the company allocated to the ordinance group rate base $1,022,563 of property classified by it as assignable to wartime loads and in compensation therefor increased the indicated return on the ordinance group rate base by $238,313.45 of the incremental profit received from temporary war loads.

As above stated both city and company used the company experience during the first year of the ordinance. During this year the peak of temporary wartime loads was 157,000 kilowatts, (210,000 horsepower). During the ordinance period temporary war loads later dropped to 32,700 kilowatts (43,500 horsepower). Were the tem-

porary war loads to be included in the ascertainment of peak loads for allocation the resulting rate base assignable to the ordinance groups during the second year of the ordinance would be higher than in the first year of the ordinance by reason of the great decline in the temporary war loads.

The process of allocation to assign to the rendition of a specific service a proportion of property jointly used in the furnishing of several services is not susceptible of exact mathematical determination. However, before acceptance, any basis of allocation should meet the following tests as to its soundness:

The principles incorporated therein must be in harmony with the economics of the results of the operation of the property, consistent throughout and give proportionate consideration of the purposes for which the property is provided and expenses made. They must produce equitable results not only in this case but in future cases. Principles which in their application result in the proper interrelationship of the several rates for the various classes of service and give due regard to unusual or nonrecurring situations in such a way as to produce sound results at all times whether such unusual or nonrecurring situations are present or not.

The basis of allocation used by the company appears to meet these requirements. The basis used by the city appears to fall short of these requirements to the extent that it includes in the determination of the respective noncoincident peaks the temporary wartime loads. The fact that the temporary war loads dropped from 157,000 kilowatts to 32,700 kilowatts during the ordinance period demonstrates that these loads are temporary and their inclusion in determination of peak loads for allocation of property would produce diverse results at different dates of application even within the ordinance period. The company treatment of these temporary wartime loads, which credits to the permanent customers the incremental profits from the temporary loads is consistent with the treatment accorded by this Commission to similar earnings of utilities from incremental loads in prior rate proceedings and in our opinion is an equitable treatment giving due regard to the interests of the permanent customers. For the above reasons, in our determination of the value of the property used and useful in the furnishing of service to those customers whose rates are set forth in the ordinance complained of, the company method of allocation will be used. This method of allocation produces a value of $43,487,902, as set forth in Table 2, for the reproduction cost new less depreciation of the property dedicated to the service of those customers whose rates are fixed by the ordinance appealed from.

Operating Expenses

Those operating expenses concerning which the city and company are not in agreement are set forth in the opening statement of the issues herein involved in this finding and opinion. These issues as to allowable operating expenses will be separately discussed.

Reserve for Postwar Adjustments

[21–23] The largest single item of company expense which was contested

by the city was an appropriation for a reserve for postwar adjustments which was charged against operating expenses during the first fifteen months of the ordinance period. During the last nine months of the ordinance period, operating expenses were relieved by a credit for a transfer from the reserve.

The company created the reserve to cover deferred war costs of various types. The city contended that such deferred costs, if any, should be charged against the period in which they occur or alternately, if a reserve were created, it should be set up as a surplus reserve and the appropriations to the reserve should not be charged as operating expenses.

The question is closely related to the amortization of facilities which the company was permitted to depreciate fully for tax purposes during the war period from January 1, 1942, to September 30, 1945. This increased depreciation deduction substantially reduced income taxes during the said period. The amount of the company's appropriation to its reserve for postwar adjustments was equal to the amount of the tax reduction resulting from amortization.

The company's evidence showed three types of deferred war period costs which were attributable either to the fact of amortization or to war operations. These were: 1. Increased income taxes during the postwar life of the facilities amortized due to the fact that normal depreciation cannot be taken on such facilities for income tax purposes during the remainder of their life because such deduction was exhausted by amortization. 2. Accelerated depreciation arising from such things as premature retirement of facilities due to war construction, abnormally short lives for facilities due to disappearance of war loads, substandard construction during the war due to the use of substitute and poor quality materials, lasting damage due to deferred maintenance and damage resulting from the overloading and high load levels of wartime operations. 3. Miscellaneous postwar operating costs, such as deferred maintenance, decreased efficiency resulting from deferred maintenance, increased maintenance due to poor quality equipment and installations made during the war, and carrying charges postwar on facilities which will be either idle or only partially used as a result of war installations or are war installations which are not economically justified for peacetime operations.

The company's evidence on these various points was virtually undisputed. The evidence justifies the finding that the size of the reserve accumulated during the war period is reasonable in relation to the probable amount of postwar costs resulting from amortization and war operations.

The expenses which are involved in the creation and use of the reserve for postwar adjustments are all of the type that are properly chargeable as operating expenses for rate-fixing purposes. Therefore, if the size of the reserve is reasonable in relation to the needs for which it was created, the only remaining question is whether or not the accounting was proper for rate-fixing purposes. It is a well-established rule of accounting, admitted by city witnesses, that the revenues and expenses for a given period must be matched in determining the net income for such

period; i.e., the expenses caused in producing revenues must be charged against such revenues. This rule applies whether the expenses are actually experienced in such period or in another period. Any other rule would make a "test period" meaningless as a basis for fixing rates. The company's method of accounting matched revenues and expenses with as much accuracy as possible in the cricumstances of the case. It resulted in charging the expenses caused by war operations and the amortization practices against the revenues of the war period. The accounting was, therefore, correct, and the appropriation to the reserve for postwar adjustments should be allowed as an operating expense.

It should be noted that the company proposes to use the entire reserve for postwar adjustments to relieve postwar operating expenses. There will, therefore, be no windfall to the company because this use will either permit future reductions in rates or limit the amount of increases which might otherwise be ordered. Moreover, over 60 per cent of this reserve which will be used to relieve future operating expenses was accrued during a period that is not subject to regulation, so that the company by its method will voluntarily reduce operating expenses chargeable against postwar customers by approximately $6,600,000 that would not otherwise be available for such purposes.

The company also contended that the amount of the tax reductions resulting from amortization constituted an inducement to the company granted under the war powers of Congress and could not, therefore, be used as a basis for rate reductions in the event that the appropriation to the reserve for postwar adjustments were not allowed.

We concur in this. However, in view of the use which the company actually made of the funds realized from tax reductions it is not necessary for us to place our decision on this ground. Even had the company actually appropriated the amount of the tax reduction to surplus, it is difficult for us to see how this Commission could have ordered a rate reduction based on such tax reductions without defeating the clear intent of Congress shown from the whole legislative history of the Amortizations Sections of the Internal Revenue Code.

Inasmuch as this opinion is based on the accounting practices of the company as outlined above, the order of the Commission will require the company to continue to use its Reserve for Postwar Adjustment for the relief of operating expenses subject to the continuing supervision of this Commission.

In the oral argument the counsel for the city, Mr. Morgan, approved the company's method. R. 1940–1944.

Regulation Expenses

[24, 25] The city contended that both rate case expense and the company's expense in attempting to negotiate an acceptable ordinance with the city should be disallowed for rate case purposes. It was not contended and there was no evidence to show that such expenses were unreasonable. We think it is clear that a company must be allowed the expense necessary to attempt to negotiate its rates without litigation. It is good public policy to encourage the fixing of rates without appeal to this Commission.

We, therefore, approve the rate ordinance negotiation expenditures as a proper expense for rate-fixing purposes.

The question of rate case expense is related to the merits of the company's appeal. Should we find that the ordinance appealed from is unjust and unreasonable, it follows that the company was justified in seeking relief from its application.

A company's expense in prosecuting an appeal to protect its business and property where such an appeal is justified must be allowed. (East Ohio Gas Co. v. Cleveland [Ohio 1939] 27 PUR(NS) 387; East Ohio Gas Co. v. Public Utilities Commission [1938] 133 Ohio St 212, 22 PUR(NS) 489, 12 NE 765; West Ohio Gas Co. v. Ohio Pub. Utilities Commission [1935] 294 US 63, 79 L ed 761, 6 PUR(NS) 449, 55 S Ct 316.)

Charitable and Civic Contributions

[26] During the test year the company made charitable and civic contributions in the amount of $64,000, of which, $13,613 was allocable to the customers affected by the ordinance appealed from. The city contends that this amount should not be allowed as an expense for rate-fixing purposes. The effect on the case is almost nominal since its allowance or disallowance would change the rate of return only .03 per cent. However, we think the matter should be disposed of. The evidence is that such contributions are made by corporations generally, that the amount contributed by the company was reasonable when tested by the contributions of others, and that the purposes for which such contributions were used contributed to the general welfare of the city.

Expenditures of this character must always be carefully scrutinized. The testimony in this instance clearly shows that with respect to the purpose and amount of the contributions that the company was selective and prudent. The company's management is shown to be civic-minded, alert to the needs of the community it serves, and strives to provide a utility service of the highest character. It seems to us that the allowance of this item, the impact of which is insignificant as to any ratepayer, and the use of which was for salutary purposes, is justified.

Pension Plan

[27] The city urges that an allowance as expense of $343,615.80 covering costs of funding the company's pension plan for employees should be disallowed as an operating expense.

In 1931 the company adopted a funded plan which provided an annual pension equal to 2 per cent of an employee's total earnings from the company upon retirement. The plan provides for the retirement of women at the age of sixty and men at the age of sixty-five provided they have had twenty or more years of service with the company. In its brief at page 123 the company states:

"At the time of the adoption of the pension plan it was made applicable to all employees who reached the retirement age thereafter. Under the funding plan the annual payments are so fixed as to provide funds for an employee's pension over the entire period of his service. Therefore, the annual payment alone would not accumulate sufficient funds to pay a full pension to

those employees whose service began before the adoption of the plan. The total cost of funding the program was, therefore, measured in part by earnings of employees prior to February of 1931. This was essential to the practical operation of the plan. The company elected to amortize this portion of the cost of funding the pension program over a period of twenty-five years, which roughly measured the time during which such employees would continue to serve the company. The regularity of the amortization was interfered with by rising costs, but it is expected that the program will be completed at the end of the original 25-year period."

Prior to 1943 the company charged the annual amounts required to amortize the unfunded liability to surplus; thereafter such charges were made to operating expenses which practice the company contends is proper and in accordance with sound accounting practices. It is the claim of the city that such expense is a payment for past service and in its brief questions the motive of the company as to whether the adoption of the pension plan voluntarily entered into might not have been done to "curry favor of their employees as part of the public who might help the company in sustaining higher rates or getting higher rates when such issue might come before the council or this Commission." Otherwise the propriety of a provision for pension for employees is not challenged.

This Commission in the matter of the complaint and appeal of The East Ohio Gas Company in Cases Nos. 11,001, 11,218, and 11,442, 56 PUR (NS) 73, 86, had before it a similar pension plan and it was observed by the Commission in the finding and order in that case as follows:

"The claim of the company to the allowance of these amortized payments as operating expenses in the year 1941 and thereafter is controverted by the city and it is urged that they should be eliminated. The claim of the city is that this is a deficit which existed as of 1931 and should therefore be disallowed and should not be charged against present consumers. No claim is asserted and there is nothing in the record which questions the wisdom of the company's action in making the lump-sum payment. Neither is the propriety of the retirement annuities to employees questioned. It has frequently been held by courts and Commissions that payments for annuities by companies rendering a regulated public service are a proper part of the costs of rendering such service. This is affirmed, we believe, by the decision of the supreme court in the East Ohio-Akron Case ([1938] 133 Ohio St 212, 228, 229, 22 PUR(NS) 489, 12 NE 2d 765). Since it appears that the company could have properly charged to current operating expenses the deficiency between what an annuitant would have received from the annuity fund as it stood prior to the payment made by the company and which it now seeks to amortize, and the amount to which such annuitant was entitled, and in the absence of any claim or showing that the annuity trust fund arrangement is improper, we are disposed to allow the company's claim in this respect."

Mr. Sidney L. Hall, vice president and secretary of the company, in his oral testimony stated that the time of

the adoption of the pension plan in 1931 and thereafter until 1943, the Internal Revenue Act applicable to the allowance of pension payments as a deduction for tax purposes was not very clearly stated and that it was not clear as to how to handle such payments in the case of insured plans as distinguished from trustee plans and as distinguished from unfunded plans; that the law was not clear and that it led to a great deal of confusion; that the Revenue Act of 1942, adopted in October, 1942, clarified the situation and that subsequent to such amendment and such clarification the company has been permitted to charge as an expense, and therefore a deductible item for income tax purposes, the amount which the city now asks be eliminated from operating expenses.

We are of the opinion that upon the record before us that the charge is one properly attributable to operating expenses and we therefore allow the same.

Annual Allowance for Depreciation

Both city and company, in their computations of cost of service for the entire electric operations of the company allow as an annual charge for depreciation the amount set aside by the company as a provision for depreciation during the year ended June 30, 1945, the test year used by both parties. The differences between the parties in the resulting amounts for annual depreciation charged to the furnishing of service to those customers whose rates the ordinance proposes to fix result from differences in allocation. In our determination of the cost of service to the ordinance customers we are including for depreciation the resulting allocated portion of the annual provision of the company for depreciation for the year ended June 30, 1945, resulting from the application of those bases of allocation adopted herein.

Return Provided by Ordinance Rates

[28] After deduction of the costs of service as determined herein, Table 5 which is made a part of the finding and opinion shows that the rates set forth in the ordinance herein appealed from will provide for the year ended June 30, 1945, a return to the company of 4.06 per cent on the herein found $43,487,902 value of the property used and useful in the furnishing of service to those customers whose rates the ordinance proposes to fix.

The city contends that if reproduction cost new less depreciation is to be used as a rate base a return of 4 per cent on such rate base is a reasonable return and offers in support thereof the testimony of its witness, Mr. C. W. Smith. However, the witness Smith characterized the submitted opinion as to adequacy of a 4 per cent return on reproduction cost new less depreciation as "a speculation as to reproduction cost of capital." He further stated that he could not "realistically in a practical manner determine a fair rate of return to be applied to reproduction cost rate base." The city presented no evidence concerning rate of return applicable to the ordinance classes in the territory subject to the ordinance. The testimony submitted by the city was relative to an adequate return from all electric operations of the company. The company presented testimony concerning adequate return from all electric operations and in addition thereto

testimony in support of its claim that not less than 6 per cent return on a reproduction cost new less depreciation rate base should be allowed for service to the ordinance classes.

In the light of the testimony submitted in this case, the return provided by the rates set forth in the ordinance complained of and appealed from appears to be insufficient and inadequate and this opinion and finding so holds.

Rates Fixed in Substitution for Ordinance Rates

Under the provisions of § 614–46 of the laws of Ohio, the Commission having herein found that the rates provided in the ordinance complained of and appealed from are unjust, unreasonable, and insufficient to yield reasonable compensation for the service, it then becomes the duty of this Commission, according to the facts in this case, to fix and determine the just and reasonable rates to be charged in substitution therefor.

The ordinance proposes to fix the rates for two years from July 7, 1944, the effective date. The company, in its brief, states that as a practical matter it is neither just nor reasonable to apply rate increases retroactively and requests this Commission to fix the schedules of rates which were in effect immediately prior to the effective date of the ordinance as just and reasonable rates for the ordinance period. Table 3, made a part of this finding and opinion, shows that for the year ended June 30, 1945, the presently collected rates which were the rates in effect just prior to the passage of the ordinance appealed from, provided a return of 4.43 per cent on the herein found rate base of $43,487,902. In the light of the facts in this case such a return does not appear to be excessive. An order consistent with the findings herein will be accordingly drawn finding that the rates prescribed in the ordinance herein complained of and appealed from are unjust, unreasonable, and insufficient to provide reasonable compensation to the company, and substituting therefor the rates and charges in effect just prior to the passage of said ordinance.

WISCONSIN PUBLIC SERVICE COMMISSION

Bertil Peterson et al.

v.

Wisconsin Telephone Company et al.

2-U-2252
January 17, 1947

PETITION *for order directing telephone company to extend service; service authorized.*

Monopoly and competition, § 86 — Telephones — Objection to extension of service.

1. The objections of a competitor to a telephone company's extending its lines into a new area were overruled where the objector's service in the area had not been dependable and its facilities had deteriorated, and where, because of the business and social relationship of the subscribers to be served, public convenience and necessity required the extension, p. 93.

Service, § 179 — Telephones — Extension to new area — Public convenience and necessity.

2. The Commission will authorize a telephone company to extend its lines beyond its service area where the company has indicated its willingness to do so and where public convenience and necessity requires the extension, p. 93.

Service, § 490 — Duty to order extension — Inadequacy of authorization — Telephones.

Statement in dissenting opinion that where prospective telephone subscribers request an order directing a utility to extend service, the Commission, on finding that public convenience and necessity requires the extension, should order and not merely authorize the utility to render service, even if its willingness to do so has been previously indicated, p. 94.

(BRYAN, Commissioner, dissents.)

By the COMMISSION: On September 20, 1946, Bertil Peterson and sixteen others filed a petition with the Commission requesting that Wisconsin Telephone Company be required to extend telephone service from its Ellsworth exchange. On October 15, 1946, Wisconsin Telephone Company notified the Commission that it is willing to extend service immediately to one petitioner and to the others upon waiver of objection by the Hartland Telephone Company.

APPEARANCES: Bertil Peterson, Bay City, for petitioners; Wisconsin Telephone Company by Fred E. Manchester, Rate Engineer, Milwaukee,

and E. L. Dexter, District Commercial Agent, Eau Claire, for respondent; of the Commission staff: K. J. Jackson, rates and research department.

The petitioners operate farms located in sections 2, 3, 10, 11, and 17 of the town of Hartland, Pierce county. This area is about 5 miles from the Ellsworth exchange of Wisconsin Telephone Company and 4 miles from the Esdaile exchange of the Hartland Telephone Company.

[1, 2] Testimony presented by the petitioners indicated that the Hartland Telephone Company had at one time furnished telephone service in the area. The quality of such service deteriorated to the point where everyone discontinued its use. The poles and wire have gradually disappeared. The Hartland Telephone Company has informed the petitioners that it is opposed to the Wisconsin Telephone Company entering the area as it desires to reëstablish its lines as soon as materials become available. The petitioners do not desire Hartland Telephone Company service because such service has not been dependable in the past and because the present plan proposes the establishment of a grounded line which will be subject to inductive interference from the electric lines in the area. Further testimony indicated that the petitioners are in the trade area of Ellsworth and have their principal business and social relationships with telephone users now connected to the Ellsworth exchange.

Wisconsin Telephone Company submitted testimony indicating that it is willing to extend Ellsworth exchange service to the petitioners provided the Hartland Telephone Company withdrew its objection or the Commission ordered it to extend.

It appears to the Commission that inasmuch as the Wisconsin Telephone Company is willing to extend its service to the petitioners, the essential issue to be determined is whether such extension is not required by public convenience and necessity. The evidence in our opinion is not sufficient to show that the rendition of service as requested by the petitioners is not required by public convenience and necessity.

The Commission finds:

1. That Wisconsin Telephone Company has signified in this proceeding its willingness to furnish service from its Ellsworth exchange as requested by the petitioners herein.

2. That the evidence herein is not sufficient to show that the rendition of such service to said petitioners is not required by public convenience and necessity.

The Commission therefore concludes:

That Wisconsin Telephone Company should be authorized to extend its Ellsworth exchange service to the petitioners herein.

ORDER

It is therefore *ordered:*

That the Wisconsin Telephone Company be and hereby is authorized to extend service from its Ellsworth exchange to the following occupants of the premises in sections 2, 3, 10, 11, and 17, town of Hartland, Pierce county: [List of persons omitted].

BRYAN, Commissioner, dissenting: Because the representatives of the Wisconsin Telephone Company at the hearing expressed a willingness on the

part of said company to extend its lines as requested if ordered to do so by the Commission, the majority apparently concludes that the proceeding is under § 196.50(2) Statutes and makes a finding appropriate to that section. I know of no instance in the past where the Wisconsin Telephone Company has contested in the courts an order of this Commission requiring it to extend its rural lines. It has always been willing to make such extensions when ordered to do so by the Commission. Its position in this case is not new, nor does its willingness to extend its lines as ordered result in any enlargement of the power of the Commission. The power of the state of Wisconsin does not rest on the whim of any public utility.

Obviously, however, this proceeding is not under § 196.50(2), unless that section applies to involuntary extensions of service. If an order of the Commission is necessary before the company is willing to act, there is no voluntary status. No written notices as required by that section have been given.

In my opinion the extension of service requested should be ordered and not merely authorized. Moreover, the order should be grounded, not on the whim of the Wisconsin Telephone Company, but on the power of the state as set forth in §§ 196.26 to 196.37, Statutes, inclusive to require a telephone company to provide reasonably adequate facilities and service to the public.

WISCONSIN PUBLIC SERVICE COMMISSION

Reverend L. B. Melvin

v.

Wisconsin Telephone Company et al.

2-U-2286
January 20, 1947

PETITION *for order directing a telephone utility to render service to residence; service authorized.*

Monopoly and competition, § 86 — Telephones — Duplication of facilities.

A telephone utility was authorized to serve a residence in an area where its undertaking overlapped that of another utility even though the residence was already connected to the lines of the other company by facilities left by a previous tenant, where no showing was made that the rendition of service was not required by public convenience and necessity.

MELVIN v. WISCONSIN TELEPHONE CO.

Service, § 490 — Duty to order service — Adequacy of authorization order.

Statement in dissenting opinion that the Commission, after finding that a prospective subscriber is entitled to service, should order that he be served and not merely authorize the utility to extend service, p. 96.

(BRYAN, Commissioner, dissents.)

By the COMMISSION: In September, 1946, Reverend L. B. Melvin, Route #3, Evansville, called at the office of the Commission and complained that the Wisconsin Telephone Company had refused to extend service to his premises from its Evansville exchange. Informal investigation disclosed that the Footville Telephone Company objected to the installation of service by Wisconsin Telephone Company because it is prepared to render service at the premises and has facilities connected to the complainant's residence left by a previous tenant. Notice of investigation and hearing and assessment of costs was issued on December 4, 1946.

APPEARANCES: Reverend L. B. Melvin, Evansville; W. E. McGavick, Attorney, and F. E. Manchester, General Commercial Engineer, Milwaukee, for Wisconsin Telephone Company; Rieser and Mathys, by Willard S. Stafford, Madison, and Mrs. J. D. Kratz, Secretary, Footville, for Footville Telephone Company; of the Commission Staff: K. J. Jackson, rates and research department.

The residence of Reverend L. B. Melvin is located in the southeast quarter of the southeast quarter of section 15, town of Magnolia, Rock county. The residence is about 200 feet west of the unincorporated community of Magnolia which in turn is located at the intersection of state trunk highway 13 and county trunk highway A. Magnolia is about 4½ miles south of Evansville and 4¾ miles northwest of Footville. Wisconsin Telephone Company and Footville Telephone Company are rendering telephone service in Magnolia at the present time. Wisconsin Telephone Company has a line extending south from Evansville that terminates about 200 feet east of the Melvin premises. It also has another line extending south and west from Evansville that terminates about 300 feet west of the Melvin premises. In fact testimony presented at the hearing shows that at one time Wisconsin Telephone Company had a line along the highway that passes the Melvin residence. Footville Telephone Company has a line extending east and north from Footville that rendered service to Reverend Melvin's predecessor. It is apparent that the premises now occupied by the complainant are within the undertaking of service of the Wisconsin Telephone Company and the Footville Telephone Company.

Testimony submitted by Wisconsin Telephone Company indicates that when Reverend L. B. Melvin applied for Evansville service it endeavored to obtain the consent of the Footville Telephone Company to furnish the service that had been requested. Footville Telephone Company would not agree to allow the Wisconsin Telephone Company to install service at this location and, subsequently, filed objection to the proposed extension

with the Commission. The testimony further shows that Wisconsin Telephone Company believes that its undertaking of service includes the general community in which Reverend Melvin is located. As a solution of the telephone problem within the immediate area of Magnolia, Wisconsin Telephone Company suggests that telephone users be allowed to choose the service they desire. It proposes that the immediate territory in and around Magnolia be considered as "open" territory and telephone users residing in such area be allowed to subscribe to the service of either company, or both.

Testimony submitted by the Footville Telephone Company indicates that it objects to the extension of Wisconsin Telephone Company service to Reverend Melvin because it will result in a further duplication of telephone facilities in the area. It also considers Magnolia to be in the trade area of Footville. With respect to the suggestion of the Wisconsin Telephone Company that the area be considered as "open" territory, the secretary of the Footville Telephone Company stated that she was opposed to the establishment of such an area.

Reverend Melvin testified that Evansville service would be more desirable than Footville service because a very careful survey indicated that about two-thirds of his church members resided in the area served by the Evansville exchange.

The Commission finds:

1. That Wisconsin Telephone Company has indicated in this proceeding that its undertaking of service from its Evansville exchange includes service to the Reverend L. B. Melvin premises located in section 15, town of Magnolia, Rock county.

2. That the evidence herein is not sufficient to show that the rendition of such service to Reverend L. B. Melvin is not required by public convenience and necessity.

The Commission therefore concludes:

That Wisconsin Telephone Company should be authorized to extend its Evansville exchange service to the premises of Reverend L. B. Melvin.

ORDER

It is therefore *ordered:*

That the Wisconsin Telephone Company be and hereby is authorized to extend its service from its Evansville exchange to the premises of Reverend L. B. Melvin located in section 15, town of Magnolia, Rock county.

BRYAN, Commissioner, dissenting: I am of the opinion that the extension of service requested should be ordered and not merely authorized for the reasons set forth in my dissenting opinion in Docket 2252, Peterson v. Wisconsin Teleph. Co. decided January 17, 1947, 67 PUR(NS) *ante*, p. 92.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

$6,700,000 Program Proposed By Carolina Pwr. & Lt.

A 1947 construction budget estimated at $6,700,000 has been announced by the Carolina Power & Light Company.

This year's budget, containing funds for many different items, is the largest approved by the company since 1930. Principal items are: Continuation of the postwar rural line building program, a 132,000-volt interconnection with Appalachian Electric Power Company, enlargement of substations and improvements of generating plants, and installation of frequency-modulation communication systems in Asheville, North Carolina, Florence, South Carolina, and Greeleyville, South Carolina.

The largest single item in the 1947 budget is the sum of $2,200,000 for the construction of 1,500 miles of new rural lines, which will bring electric service to about 7,500 new rural customers throughout the company's territory in the Carolinas.

The company's overall postwar rural construction program is aimed at the building of a total of 4,600 miles of new rural lines by sometime in 1948, adding a total of 22,400 new rural customers.

More than $1,000,000 is included in the 1947 construction budget for the extension of lines to serve new customers other than rural.

The budget for 1947 provides in excess of $1,000,000 to build a 132,000-volt line for a second interconnection with Appalachian Electric Power Company, which serves West Virginia and western Virginia.

Almost $1,000,000 also is provided for increasing the capacity of present facilities to meet the general growth in demand for all types of customers for electric service. A number of substations will be enlarged, and general generating plant improvements are planned.

The $6,700,000 approved for 1947 constitutes only that portion of the costs for many construction projects which is expected to be spent during the present calendar year. Some of these projects will require additional large expenditures during 1948.

Davey Tree Appointment

APPOINTMENT of Francis R. Lancaster, plant pathologist, to the research staff of the Davey Tree Expert Company, and the faculty of the Davey Institute of Tree Service, was announced recently by Martin L. Davey, Jr., president.

In addition to various types of research work, Mr. Lancaster will take over that part of Davey Institute instruction covering plant diseases, and will also be in charge of correspondence, concerning tree diseases, with field men and clients.

Building Two Developmental Gas Turbines

Two developmental gas turbines, one a 5,000-kw machine for electric power stations, and the other a 4,800-hp unit are being constructed by the General Electric Company.

Alan Howard, G-E turbine-generator design engineer at Schenectady who headed design and development of the TG-100 Propjet, and TG-180 jet engines now powering the latest U.S. fighter planes, revealed that the company is also concentrating its facilities on gas turbine development in the nonaircraft field.

Shop tests of the 4,800-hp turbine are scheduled to begin this spring. The stationary power plant is in the design stage and will not undergo factory test until 1948.

Albright & Friel Move Offices

ALBRIGHT & FRIEL, INC., consulting engineers, announce the removal of their offices to Suite 816-822, 1528 Walnut street, Philadelphia 2, Pennsylvania.

They will continue in engineering practice specializing in municipal engineering, water supply and purification, sewage collection and disposal, industrial wastes and refuse disposal, investigations, valuations, reports, real estate developments, street paving, architectural, title and topographical surveys, city planning, airfields, industrial buildings, power and light, dams, flood control, design and supervision of construction, laboratory for chemical and bacteriological analyses.

1947 Construction Budget Will Exceed $33,000,000

CONSUMERS POWER COMPANY'S board of directors has approved a construction budget for 1947 providing for estimated expenditures in excess of $33,000,000, it is announced by Dan E. Karn, vice president and general manager.

The construction budget lists scores of projects for the expansion and improvement of the company's electric and gas service facilities in many parts of Michigan. It is the largest 12-months' program ever undertaken by Consumers.

"Since the beginning of the war, the use of electricity and gas in the area served by the

Company has been growing rapidly," Mr. Karn said. "Meanwhile we have been prevented by wartime restrictions and postwar shortages of materials from expanding our power plants, electric lines, and gas distribution system as we normally would have done. So a backlog of construction needs has developed. To eliminate this backlog while meeting the anticipated growth in our customers' electric and gas requirements will necessitate an unusual amount of construction during each of the next few years."

Electric generating capacity is to be increased sharply.

During 1946 the company began construction of a large electric generating station, the B. C. Cobb plant, at Muskegon. It has been decided to increase the capacity of this plant 50 per cent, Mr. Karn said.

Further enlargement of the John C. Weadock plant in Essexville, near Bay City, also has been decided upon.

Another generating unit has also been ordered for the Bryce E. Morrow plant in Comstock, near Kalamazoo. When installed in 1949, it will increase the plant's capacity 50 per cent.

More than half of the electric department's 1947 construction budget, or some $25,000,000, is to be spent in expanding and improving transmission lines, substations, and distribution lines.

Consumers has just completed formation of a subsidiary, Michigan Gas Storage Company, which will proceed with the development of the Winterfield and Cranberry Lake natural gas fields as a natural gas storage area where gas from the southwestern states may be stored in the warmer months for use in winter.

Expansion and improvement of the gas distribution system will require an expenditure of $1,800,000 during the year.

$9,000,000 Program Planned by South Carolina Pwr. Co.

DETAILS of the $9,000,000 construction program planned by the South Carolina Power Company were released recently by E. L. Godshalk, president of the company.

The money will be spent throughout the fifteen counties in which the company operates, Mr. Godshalk said. Some of the major projects are already underway or completed, he reported. Plant Hagood, an electric generating plant on the east bank of the Ashley approximately one mile from Charleston, will be completed during the middle of 1947.

A new high-tension line running from Mount Pleasant to McClellanville was placed in operation on December 19 of last year. Construction of another new high-tension line into Graniteville, increasing the power available in Aiken, Barberg, Barnwell, and Edgefield counties, has been announced.

Plans are underway to similarly increase the power available in the inland portion of the Charleston-St. George region by the construction of new lines and substations. More than 200 miles of rural lines were built by the company in the past year, and at least the same number of miles of rural lines are planned for 1947.

Many of the substations throughout the entire area served by the company are to be increased in size. It is estimated that the company will have to spend several million dollars on new distribution lines and equipment to take care of the new customers moving into this section of the country.

Although some of the work is not yet complete, the company allocated approximately $3,100,000 for new projects during 1946. The 1947 and 1948 cost of new projects will amount to around $4,400,000 and $1,600,000 respectively. New transmission lines are to cost a total of $1,900,000. New distribution equipment will cost around $3,750,000.

Plant improvements at the Charleston gas plant will amount to $260,000 and improvements to the company's transportation system will cost approximately $160,000.

$10,600,000 Construction Program for 1947

ALABAMA POWER COMPANY expects to spend around $10,600,000 for new construction in 1947. This program is one of the largest in the history of the company. Work will be started on a new 120,000 kilowatt steam plant at Gadsden, and further improvements and extensions will be made to provide service to rural areas and to urban, commercial, and industrial customers.

The power output of Alabama Power Company in 1946 reached an all time high. Around 29,000 new customers began taking service from the company's lines in 1946, making a total of 238,000 customers served by the company at the end of the year. At least another 29,000 new customers will be added in 1947, if materials and supplies permit. It is expected that by 1948 practically all farms in the company's service area will have electricity available.

Further increases in power demands in large amounts are expected from existing industries that have planned to enlarge their present mills and factories and to erect new ones. These prospects for economic progress in Alabama indicate that company expenditures for new power plants, lines and other facilities during the next four years may well equal $50,000,000.

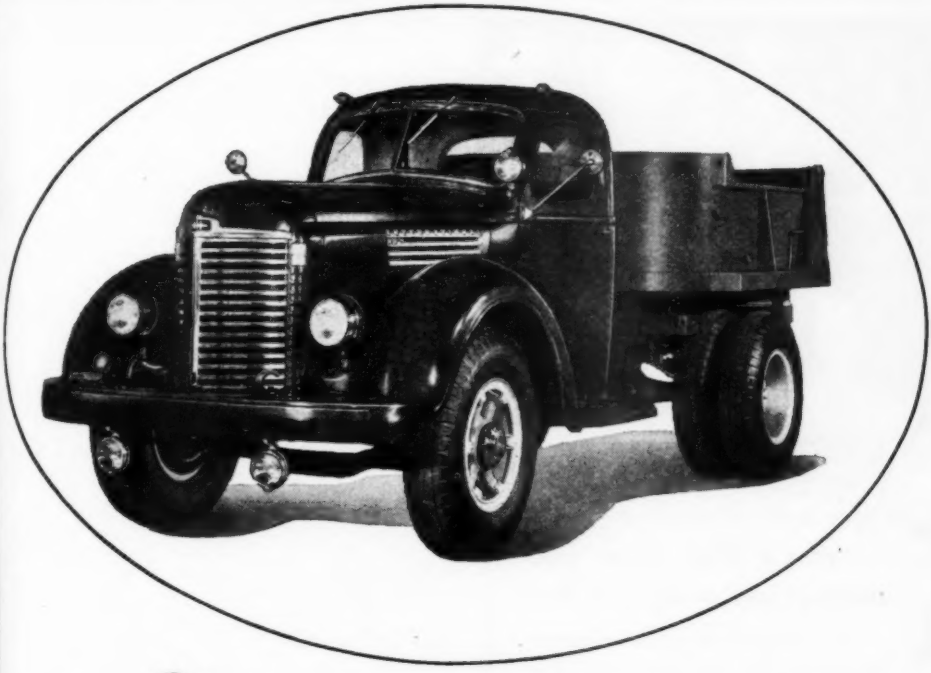
G-E Appointment

CLARK M. WRIGHT, sales engineer in General Electric's Chicago office, has been appointed assistant manager of the turbine division in Schenectady, it was announced by C. S. Coggeshall, manager of the division.

A-C Bulletin

ALLIS-CHALMERS products for heating, ventilating, and air conditioning, which are used in a variety of installations from department stores and office buildings to aviation wind tunnel testing, are presented in a new bulletin released by the company.

Equipment portrayed and described includes Texrope V-belt drives, centrifugal pumps, a-c



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International Model KB-7 above is an example. This unit, with three-way round front dump body with a cubic capacity of three yards, is especially adapted to city, county and state highway jobs where traffic is heavy.

The International KB-7 has a gross weight rating of 16,500 to 21,500 pounds, and is available in these wheelbases: 134, 146, 158 and 176 inches. It is powered by the famous International Blue Diamond 269 Engine, which develops 100 brake horsepower at 3000 r.p.m., and 200 pound feet of torque at 1600 r.p.m.

Gross weight ratings of the 15 basic models in International's new KB Line range from 4,400 to 35,100 pounds. Because of the almost endless list of options and conversions available, these 15 models convert and adapt into more than 1,000 transport units, which means that in the *complete* International Line there is a truck of the right type, size and power for every city, county and state job.

KB Internationals—the finest in 40 years of International Truck history—are backed by famous International Truck maintenance and service. For details, see your International dealer or branch.

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and d-c motors, a complete line of motor control, dry-type transformers, and a-c and d-c welders.

The 12-page bulletin, 25B6183, is available upon request from the Allis-Chalmers Mfg. Company, Milwaukee 1, Wisconsin.

Ohio Edison Co. to Spend $14,000,000 on Expansion

THE OHIO EDISON COMPANY will spend $14,000,000 on an expansion program that will add 120,000 kw of new generating facilities to the company system. An addition, housing two new generating units, will be built at the Toronto steam-electric generating plant on the Ohio river, raising the capacity of the Toronto plant to 300,000 kw. Other features of the program include a 44,000 kw expansion to the Gorge plant in Akron and a 23,000-kw addition to the Mad river plant in Springfield.

Dayton Power & Light Has $12,000,000 Program

To adequately meet future requirements for electric service in the twenty-four Ohio counties in which it operates, The Dayton Power and Light Company has planned a $12,000,000 expansion program.

An integral part of the plan is a new power plant on the Great Miami river, just south of Miamisburg, and will have a 100,000 kilowatt capacity. This modernistically designed generating station will increase the overall company capacity to 310,000 kilowatts. It will house two new 50,000 kilowatt turbines as added service to the present 210,000 kilowatt capacity of the Millers Ford plant.

Mississippi Pwr. Has Four-Year Construction Program

THE MISSISSIPPI POWER COMPANY is launching a four-year construction program to cost more than $11,000,000. Principal projects involved are the construction of a third hp steam electric generating unit at Plant Eaton, 115 miles of 110,000 volt and 150 miles of 44,000 volt transmission lines. Provision is made for expanding existing substation capacity, adding new stations, strengthening distribution system and extending rural and urban lines.

$16,400,000 Expansion Program

FLORIDA POWER & LIGHT COMPANY has a $16,400,000 construction budget for 1947. The program consists of 131 items for electric and gas properties.

Jessup Joins Cornish Wire

W. F. JESSUP, until recently chief of the wire mill branch, copper division, of the Civilian Production Administration, has joined the Cornish Wire Company, 15 Park Row, New York city, as sales manager of that organization's cord division.

new ideas

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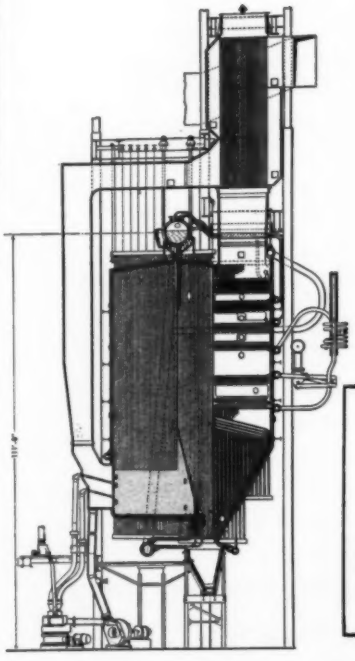
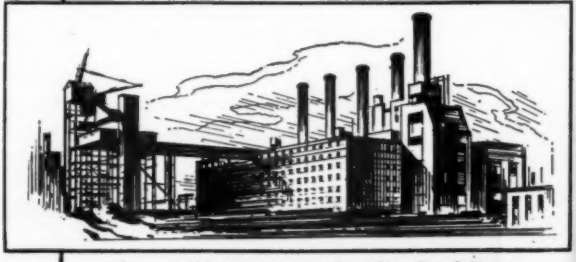
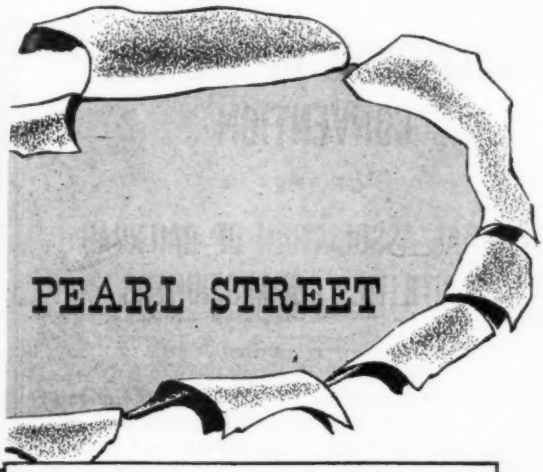


With the opening of Pearl Street Station in 1882, Thomas A. Edison ushered in a new idea in commercial lighting—with steam supplied by B&W boilers. B&W was the logical place for Mr. Edison to turn for his boilers. Years before, Babcock & Wilcox had ushered in another era in safe, efficient steam generation—already had considerable experience with boilers of the type that would best meet the requirements of the new lighting plant.

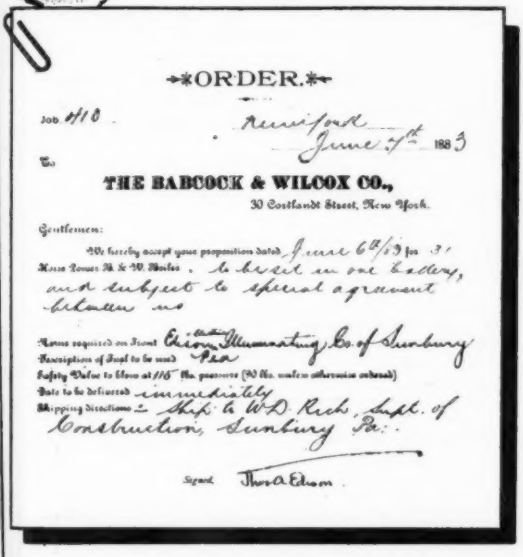
Since then B&W has never outgrown its original habit of advanced thinking—of having new ideas—of pioneering developments that steadily raised the standards of boiler making and operation.



Progress in steam generation since Pearl Street days is typified in two million-pound-per-hour B&W boilers of this design recently installed at Hell Gate Station, New York City.



Edison's original Pearl Street Station included four 216 hp. B&W boilers of the type shown below.



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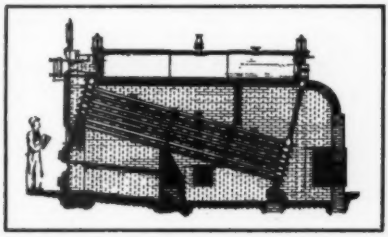
Description of Steel to be used Best
Safety Valve to blow at 115 lbs. pressure (90 lbs. unless otherwise ordered)
Date to be delivered immediately
Shipping directions Ship to W.D. Rich, Supt. of Construction, Sunbury Pa.

Signed Thos A Edison



Facsimile of order from Mr. Edison for B&W boilers for his Sunbury, Pa., plant — the first central lighting station to employ the three-wire system.

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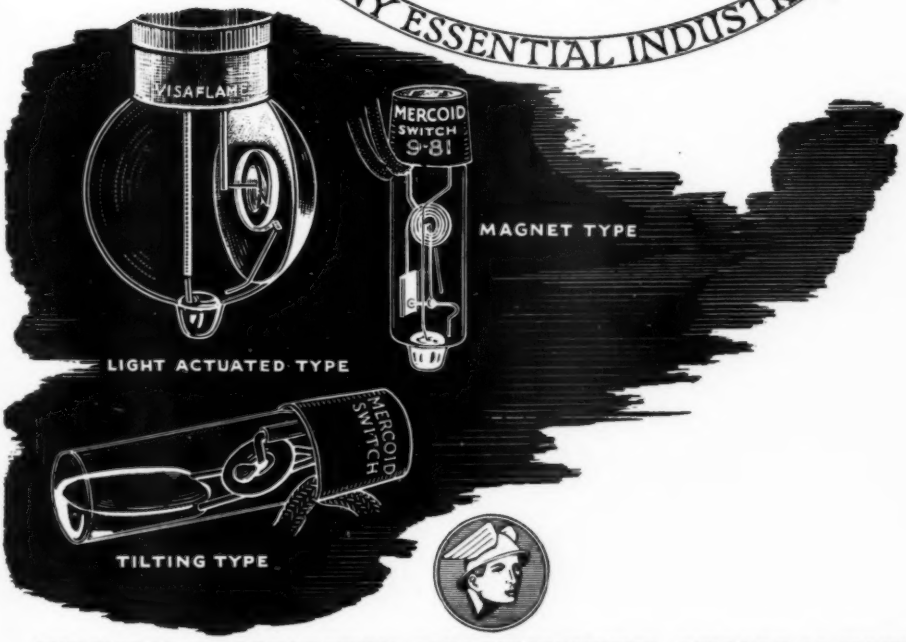

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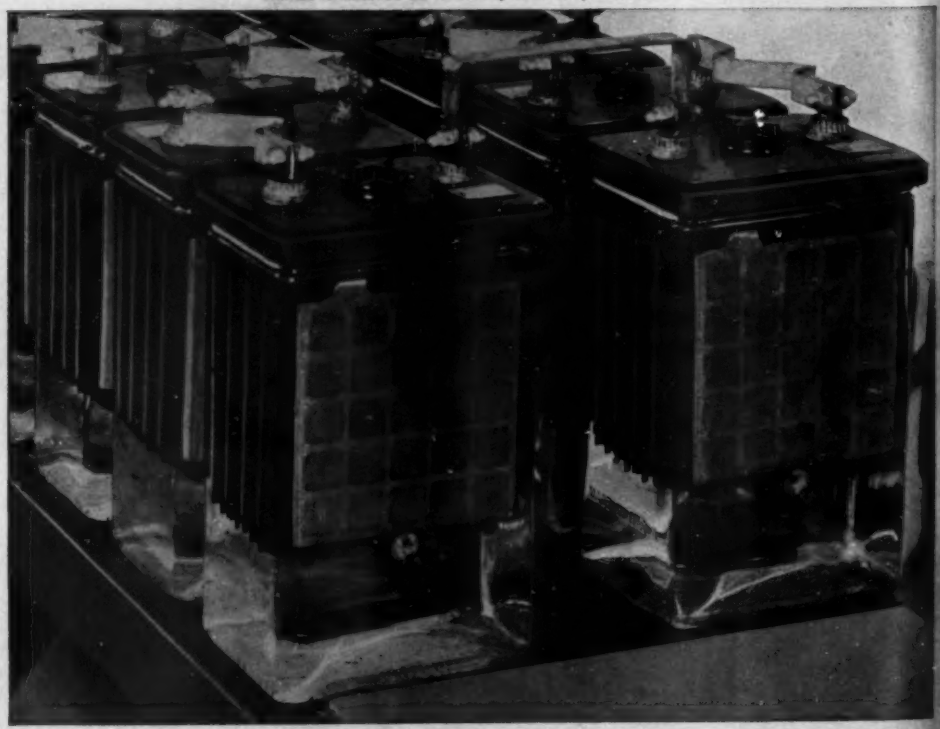

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